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2
3 IN RE THE MEETING OF THE)
4 BAY-DELTA ADVISORY COUNCIL)
5 _____)

ORIGINAL

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10 TRANSCRIPT OF PROCEEDINGS

11 Doubletree Inn

12 The Salon Room

13 Sacramento, California

14
15 Wednesday, May 12, 1999 at 9:09 a.m.

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20 REPORTED BY: SUSAN PORTALE, CSR NO. 4095, RPR, CM

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COUNCIL MEMBERS:

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Commission

LESTER SNOW, Executive Director

SUNNE McPEAK, Bay Area Economic Forum

STEVE HALL, Association of California Water
Agencies

ALEX HILDEBRAND, South Delta Water Agency

BOB RAAB, Save San Francisco Bay Association

RICHARD IZMIRIAN, California Sportfishing
Protection Alliance

DON BRANSFORD, Glenn-Colusa Irrigation District

ROSEMARY KAMEI, Santa Clara Valley Water
District

TOM GRAFF, Environmental Defense Fund

JUDITH REDMOND, Community Alliance with Family
Farmers

ROGER THOMAS, Golden Gate Fishermen's
Association

GENE ANDREUCCETTI, California Waterfowl
Association

PIETRO PARAVANO, Pacific Coast Federation of
Fishermen's Association

EZE Burts, Los Angeles Area Chamber of Commerce

STUART PYLE, Kern County Water Agency

COUNCIL MEMBERS: (cont'd)

FRANCES SPIVY-WEBER, Mono Lake Committee

BRENDA SOUTHWICK, California Farm Bureau
Federation

STEPHEN ZAPOTICZNY, Monsanto Corp./Southern
California Water Committee

HOWARD FRICK, Friant Water Authority

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ROBERTA BORGONOVO, League of Women Voters

TIB BELZA, Northern California Water Association

MIKE STEARNS, San Luis Delta Mendota Water
Agency

ANN NOTTHOFF, Natural Resources Defense Council

TOM DECKER, California Chamber of Commerce

ROBERT MEACHER, Regional Council of Rural Cities

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1 (All parties present, the following proceedings were
2 had at 9:09 a.m.):

3 CHAIRMAN MADIGAN: Good morning.

4 This is the regularly scheduled meeting of the
5 Bay-Delta Advisory Council for May 12th, 1999.

6 A quorum is present. The hour of nine o'clock
7 has slipped past us a bit but Lester has set a new
8 standards for making it difficult to find a meeting room
9 and most of you who are here congratulations, nicely done.
10 If you can find your way to this room we can find our way
11 through the process.

12 There are a number of announcements and
13 introductions that I would like to make at the front end of
14 the meeting this morning. The first of them I guess I will
15 skip for the moment.

16 Hap Dunning isn't going to be with us today but
17 Huali Chai is here from the Bay Institute and observing for
18 Hap and Huali thanks for joining us today. Steve Schaver
19 is here also as a representative -- Mike Schaver, I'm
20 sorry, it's Mike, isn't it, having just met him -- is here
21 as a tribal observer from the Big Valley Rancheria and it
22 is my understanding that Mike as well is the nominee of the
23 tribal operations advisory group as a member of BDAC.

24 So, Mike, where are you? There he is right
25 there. Welcome. Nice to meet you this morning and look

1 forward to working with you.

2 Ron Rempel is not here yet but will be here
3 presumably and as the interim State representative and, of
4 course, David Cottingham is here as the Federal
5 representative.

6 You are all aware that the next meeting of the
7 BDAC is going to be July 8th and 9th in San Diego. I'll
8 look forward to seeing you there? Yes.

9 Okay. That's it for my announcements this
10 morning. We will make further introductions as the need
11 arises, especially this afternoon when we sit down and
12 spend time with the Federal and State policy people.

13 It is my hope that when we actually of that
14 meeting with the policy group, that we will have a very
15 frank and open conversation with them. I think it's
16 important, we should try to identify not only what some of
17 the differing views might be on what ongoing government
18 structures might be but to try to get as much clarity on
19 those items as possible so that we can begin the process of
20 resolving things and finding out what role, for example,
21 the stake holder participation will play in the interim and
22 permanent policy arrangements for whatever spins out of the
23 CalFed process.

24 Okay. Let's see. The next item on the Agenda,
25 preview portions of the draft programmatic EIS/EIR.

1 we are proposing at this point in time.

2 During this time -- we've got some bars up here
3 that I want to make reference to. The first is the
4 EIS/EIR, the impact analysis and the evaluation itself
5 which is the activity that is going to continue on into
6 next year but then taper off as we get to a final EIS/EIR.

7 At the same time we expect activity to begin
8 increasing on the Record Of Decision and the documents that
9 go along with it as well as beginning to develop more what
10 will actually occur in Phase III, the implementation face,
11 which is currently scheduled now to commence after June of
12 2000, which is the Record Of Decision point in time.

13 So we've got a draft June 25th this year, the
14 ninety day public comment period, the final EIS/EIR on
15 April of next year and the Record Of Decision and
16 certification of the EIS/EIR in June of 2000.

17 Now, as part of the public review process I'd
18 like to ask Valerie to come up and talk about the hearing
19 schedule that we've got within that ninety day public
20 comment period.

21 VALERIE HOLCOMB: Thank you, Steve. I'm
22 Valerie Holcomb public affairs for CalFed.

23 We have ten public hearings scheduled for the
24 period about forty-five days after the release of the draft
25 documents.

1 You Steve, you were going to do this and lead
2 us off, reviewing the schedule and over review of the
3 sections and major revisions to the Phase II report. Yes?

4 MR. IZMIRIAN: Yes, I am.

5 CHAIRMAN MADIGAN: Terrific. It's yours. .

6 MR. IZMIRIAN: I'm going to talk about the
7 schedule first, then move into the documents themselves a
8 little bit and in the middle of that Valerie Holcomb will
9 step up and talk about the public meeting -- oh, I've got
10 to turn it on. I guess it's on -- there we. How is that
11 I'm going to be talking about the schedule and then Valerie
12 Holcomb will start about the meeting schedule that will
13 part of that preview process and then I'll talk about what
14 will be in the documents to some extent, a brief summary of
15 the EIR/EIS (inaudible) and then talk about the Phase II
16 report which is the key document that really describes the
17 CalFed program in a better way.

18 First, as far as the schedule, we are looking
19 at a public draft on June 25th. This date has held pretty
20 solid now for about the last six months so I think we are
21 very committed to that date at this point.

22 Within that there will be a large set of
23 documents just like last March. You know, you'll need a
24 wheelbarrow to take them home with you and there will be
25 subsequent to that a ninety day public comment period that

1 We have the first one tentatively scheduled for
2 August 18th and the last one for September 22nd.

3 We met with several stakeholder groups and
4 policy group and considered where we had held these public
5 hearings last year and where we've had held subsequent
6 workshops and briefings over the last year-and-a-half when
7 we decided on these sites, and they are scheduled to be in
8 Stockton, San Bernardino, Salinas, Oakland, Pasadena,
9 Antioch, Costa Mesa, Fresno, Chico and Sacramento, and I'll
10 have exact dates and locations in a couple of weeks.

11 We -- the participation of BDAC members and
12 policy group members is important to the general public
13 because they are -- can only make formal statements there
14 and not receive feedback. It helps a lot in the process to
15 them to feel that they are making these comments to
16 decision-makers and so we would encourage as many of you to
17 attend in your areas as you can and to encourage your
18 memberships or constituencies to attend as well.

19 We are also doing some work in the next -- we
20 have started in the past and are really doing some
21 intensive work in the next several weeks to get
22 multicultural communities to attend these hearings and be
23 represented.

24 We will be preparing some OP ED pieces, generic
25 OP ED pieces similar to the ones that were done last year

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1 for the first draft release and we'll be contacting various
2 BDAC members asking you to modify them slightly for your
3 perspective and then to put your name on them and then we
4 will be submitting those to various newspapers around the
5 State. So you'll be hearing from me along those lines.

6 And that's all I have on that. If there is any
7 questions. Questions?

8 Tom.

9 MR. GRAFF: While we are on Op Ed pieces I
10 just wanted to commend Lester Snow for his op ed in
11 response to Mike Risener's (phonetic) Op Ed.

12 CHAIRMAN MADIGAN: Thank you. Lester will
13 be pleased to hear that.

14 Tom, Bob --

15 VALERIE HOLCOMB: I am.

16 CHAIRMAN MADIGAN: Tom, Bob, Tom, Bob,
17 Tom, Bob, Tom, Bob, Tom, Bob.

18 Raab.

19 MR. RAAB: No.

20 CHAIRMAN MADIGAN: No?

21 Sunne.

22 MS. McPEAK: Well, do you know what
23 happened yesterday for the first time in a hundred years in
24 baseball since you are doing that?

25 CHAIRMAN MADIGAN: No, what?

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1 MS. McPEAK: Bobbie Jones won and Bobbie
2 Jones lost in pitching. It was the first time that two
3 pitchers of the same name in a hundred years were facing
4 each other and --

5 CHAIRMAN MADIGAN: Is this cool or what?

6 MS. McPEAK: I would not have thought of
7 that --

8 CHAIRMAN MADIGAN: It's a male bonding.

9 MS. McPEAK: (Knocks on table) It
10 happened before in 1899.

11 So, you know, I wouldn't have done that if you
12 hadn't done that, that Bob, Bob whatever.

13 Question, Valerie, would you review the
14 locations in Southern California of the hearings?

15 Where are they again? San Bernardino I recall
16 but where else?

17 VALERIE HOLCOMB: San Bernardino,
18 Pasadena, Costa Mesa.

19 MS. McPEAK: Okay. I'm going to ask my
20 colleagues from Southern California if you think that's
21 sufficient because we had that issue before.

22 VALERIE HOLCOMB: I can answers that for
23 you. It's not.

24 MS. McPEAK: Okay.

25 VALERIE HOLCOMB: None of this is

1 sufficient and we are going into that recognizing that you
2 cannot do enough public hearings for all of the interest
3 groups and regions, et cetera.

4 CHAIRMAN MADIGAN: Fran.

5 MS. SPIVY-WEBER: But Pasadena is close to
6 Burbank so people who came to the Burbank meeting
7 presumably came to Pasadena as well. It seems as you could
8 move it, you could have the Pasadena --

9 VALERIE HOLCOMB: There isn't one in
10 Burbank.

11 MS. SPIVY-WEBER: No. No. No. There is
12 one in Pasadena. I'm just saying in terms of catching a
13 geographical circle your catching kind of the same circle
14 with the Pasadena meeting that you caught at the Burbank
15 meeting if you're trying to move the circles around.

16 VALERIE HOLCOMB: What we are trying to
17 do, some of these are similar to what was done last year
18 because they were very well attended.

19 MS. McPEAK: Right.

20 VALERIE HOLCOMB: And they did attract a
21 broad geographic area.

22 Some were slightly different. For instance, we
23 didn't go to Monterey, Salinas before but we felt there was
24 a need to reach some of these people on the central
25 companies that aren't traditionally brought into this

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1 process.

2 We had not be to Antioch before but we were to
3 nearby areas that got Delta things. So that's the reason.

4 CHAIRMAN MADIGAN: Roberta.

5 MS. BORGONOVO: I'm sure you've also heard
6 that there are not enough in the Bay Area.

7 VALERIE HOLCOMB: Uh-huh (yes), although,
8 not as much.

9 CHAIRMAN MADIGAN: Anybody else? Okay.

10 MS. SPIVY-WEBER: If we want to offer a
11 venue, another venue in Southern California, to whom would
12 we offer that? Lester or somebody?

13 CHAIRMAN MADIGAN: Yeah, offer something
14 to Lester.

15 EXECUTIVE DIRECTOR SNOW: Make me an
16 offer.

17 MS. SPIVY-WEBER: Okay.

18 MS. McPEAK: Lester, the threshold
19 question is, okay, you are at how many, a dozen?

20 VALERIE HOLCOMB: Ten.

21 MS. McPEAK: Ten, okay. And you arrived
22 at that number based on what and the question that, you
23 know, that Frances is raising is so somebody else wants to
24 help with another one, what's the process, what kind of
25 flexibility do you have? Are these set? Are we suppose

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1 today review and sign off on these locations? Are they the
2 best even -- the best ten given all of the other
3 considerations? I'm really trying to figure out what we
4 are doing with all of this different information other than
5 just receiving it.

6 EXECUTIVE DIRECTOR SNOW: Snow actually, I
7 think it would be good for BDAC maybe to discuss this and
8 make a recommendation on it.

9 What we certainly experienced last time was --
10 I can't remember -- I think we started with 12. We ended
11 up with 17 and that was declared not enough and so I think
12 what our hesitancy is is there is probably an infinite
13 suggestion of places to meet and breaking places up and so
14 what's the optimal configuration?

15 We've held will over 200 public meetings and
16 that's declared not enough and so the issue is what's the
17 right amount and probably whatever we finally come out with
18 and announce there will be requests that we add more to it.
19 So I think, you know, your insight and suggestion on how we
20 start geographically and the number would be very useful to
21 us.

22 MS. MCPPEAK: I mean, I'm very sympathetic
23 because I'm always being criticized for not holdings enough
24 public hearings or public meetings and so I guess what I'm
25 only trying to do is ask if we should take a little bit

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1 more ownership for this so that we could help --

2 EXECUTIVE DIRECTOR SNOW: Yes.

3 MS. MCPPEAK: -- defend the decision, is it
4 constrained by the budget when I think about all of the
5 communities that have interests in California we could have
6 obviously, you know, a lot more in terms of population
7 balance.

8 I wanted to focus on Southern California
9 because there had been such, I think, there had been one
10 meeting or so before, and that that had been raised. In
11 the Bay Area I'm hearing Oakland, which is probably at
12 least on public transit for all of us who are public
13 transit dependent, but I don't know how that spreads and
14 for -- is Costa Mesa going to do it for San Diego is really
15 -- I'm really sort of pushing there and we've got sort of
16 the L.A. area and Orange County and San Diego and inland
17 empire to cover so, guys, I'm really trying to --

18 CHAIRMAN MADIGAN: Roberta.

19 MS. BORGONOVO: I think that no one thinks
20 that you should take away any public meetings. As you
21 said, you can never have too many but in taking a look at
22 Oakland I think Oakland is a good site. I think San Jose
23 had a good turnout.

24 MS. MCPPEAK: It good. I agree.

25 MS. BORGONOVO: That's a different

1 constituency and also picks up different people who can
2 come across from the Valley.

3 I've heard Santa Rosa mentioned. Again, you
4 are talking about an area of the State that's not right in
5 the Valley but there is also interest up there so I just
6 put these suggestions out and we understand that you're
7 constrained but I think that you want to make sure that you
8 made an effort to have as much public input as possible.

9 CHAIRMAN MADIGAN: Tom.

10 TOM DECKER: I agree that there need to be
11 more. I think that you ought to consider massive publicity
12 in expanding the time that you spend in a location, for
13 example, Southern California. Transportation isn't great.
14 The people who need to be there are knowledgeable about
15 this will be there. If you do a two day or a
16 day-and-a-half instead of one it's partial going part of
17 the way toward a solution and there are potentially a lot
18 more people going to be heard that way, without -- I mean,
19 that come up with Rancho this or some coastal city
20 somewhere, for example.

21 CHAIRMAN MADIGAN: Well, I for one
22 probably couldn't face my friends if there wasn't a meeting
23 in San Diego so I'd appreciate it if you would add that to
24 the list.

25 MS. MCPPEAK: Well, we want you to be able

1 to face your friends.

2 CHAIRMAN MADIGAN: Thank you.

3 MS. MCPPEAK: So I thought I'd raise that.

4 CHAIRMAN MADIGAN: With new information
5 about pitching trivia, too.

6 MS. MCPPEAK: You need those things. I'll
7 help you.

8 The comment that Roberta made about San Jose.
9 San Jose came about because Lester and I were sitting
10 before on a committee and Mike came to ask why wasn't there
11 a meeting in his district and so I, of course, wanted to
12 make sure there was one in Stockton and in Fresno. I think
13 that their needs to be a good match up with leadership for
14 the State and the Federal Government and just be sensitive
15 to that so I haven't run the full political punch list but
16 I think -- I just -- I really want to do that.

17 And might I add that we specifically ask the
18 members of the legislature and members of Congress to come
19 to those hearings.

20 CHAIRMAN MADIGAN: You betcha.

21 MS. MCPPEAK: We did not fully exhaust that
22 potential. These are terribly time consuming, as Tom says,
23 to organize and, you know, I just think every elected
24 official and I'd probably add, local elected official. So
25 that by the time you finish with ten, twelve, however many

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1 there are, it should have been our goal that every elected
 2 official, particularly State and Federal but I'd add city
 3 and county and water district have been invited and
 4 notified personally have these hearings.
 5 CHAIRMAN MADIGAN: Will all testimony be
 6 considered as input into the EIR and -- because we will be
 7 recording it or will it only be written that we accept?
 8 VALERIE HOLCOMB: Verbal and written is
 9 all counted.
 10 CHAIRMAN MADIGAN: Okay. So we will be
 11 recording and transcribing all of the activities and we
 12 will be responding to all of the comments, either
 13 individually or groups, even if -- whether they are spoken
 14 or written?
 15 VALERIE HOLCOMB: Uh-huh (yes).
 16 CHAIRMAN MADIGAN: Okay.
 17 VALERIE HOLCOMB: And, Sunne, every
 18 elected official gets a letter, a personal letter, and a
 19 stack of invitations to distribute to their constituencies.
 20 MS. McPEAK: That's great, Valerie.
 21 I know they will still say but you didn't ask
 22 me because I wasn't -- we weren't in their office directly
 23 in front of them.
 24 I mean, I understand even doing that doesn't
 25 prevent the criticism. But, thank did that happen actually

1 with staff on when that meeting is so it doesn't conflict
 2 or overrun with any other regional meetings that are going
 3 on that the Sups need to attend or that the north State's
 4 involved with.
 5 That shouldn't be a problem, should it, Lester?
 6 EXECUTIVE DIRECTOR SNOW: I don't think
 7 so. We haven't made arrangements yet, have we?
 8 VALERIE HOLCOMB: We have made tentative
 9 arrangements yet.
 10 MR. MEACHER: It's not a problem anyway.
 11 VALERIE HOLCOMB: It's not a problem,
 12 anyway.
 13 CHAIRMAN MADIGAN: Stu.
 14 MR. PYLE: I'd just like to comment on the
 15 conduct of the hearings.
 16 I thought the hearings that were conducted for
 17 the last ones, Joe Bottowitz (phonetic) was the Hearing
 18 Officer and he was very firm on the three minute rule, and
 19 he did not allow people to go over and I never heard so
 20 many people make so many concise statements to get all have
 21 there stuff in in three minutes. I thought it was really a
 22 great procedure. I hope you'll keep that up.
 23 CHAIRMAN MADIGAN: Okay.
 24 Lester.
 25 EXECUTIVE DIRECTOR SNOW: Yeah, a couple

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1 in the last round?
 2 VALERIE HOLCOMB: I believe it did for the
 3 less round. It's happened forever workshop that's go on
 4 since I've been at CalFed in the last year.
 5 In addition, we are sending out a mailing to
 6 all the county supervise -- it's about two thousand -- all
 7 of the county supervisors, all of the Delta communities,
 8 all of the major cities in the State, all of those elected
 9 officials. It comes to about two thousand. We are sending
 10 them a mailing this month, a letter, the new primer and the
 11 schedule to help them get back up to speed on this if they
 12 hadn't been paying attention.
 13 MS. McPEAK: Could I do this -- I'll do
 14 this off line.
 15 CHAIRMAN MADIGAN: Bob.
 16 MR. MEACHER: Just one request, Valerie.
 17 If I heard you right there will be one meeting in the north
 18 State and that's at Chico.
 19 VALERIE HOLCOMB: Chico.
 20 MR. MEACHER: And if we are trying to
 21 reach population basis, and I understand why you need more
 22 down South. I take hits because folks do look at the map
 23 and say there is only one meeting in Northern California
 24 but I understand that and I try to explain that.
 25 What I would like to do is to be able to work

1 of points I wanted to remind people of the structure that
 2 we used last time, which I think we are contemplating this
 3 time.
 4 You may recall that some of the public is
 5 frustrated at the official hearing format where it really
 6 is setup to receive their comments in a very official
 7 fashion and so we tried to deal with that last time by
 8 starting, what was it, an hour ahead of time with an
 9 informational session where they can come and we can simply
 10 interact for an hour and then we start the official
 11 hearing.
 12 That helped and that's what we will do this
 13 next time, also.
 14 It would be good. I mean, given the schedule
 15 that we are on and the need to print our hearings, if we
 16 are going to supplement the ones that we've listed, that
 17 we, I think kind of follow in Sunne's lead, that we kind of
 18 decided to and BDAC make some recommendations.
 19 Maybe I started my list too late but I have
 20 Oakland, San Jose, Santa Rosa, San Diego, and while Bob
 21 didn't say this specifically I think he raised the issue of
 22 another one in north State, like Redding or somewhere. I
 23 don't know what would be the appropriate location.
 24 VALERIE HOLCOMB: Oakland.
 25 EXECUTIVE DIRECTOR SNOW: So I guess I

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1 really would ask BDAC to make sure that's a complete list
2 to choose from and then give us some advice on which ones
3 should be added.

4 MS. McPEAK: Oakland is on the list
5 already.

6 VALERIE HOLCOMB: Oakland is on the list.

7 MS. McPEAK: Oakland is on the list.

8 Is San Francisco? I've just got a no.

9 VALERIE HOLCOMB: No, San Francisco is
10 not.

11 MS. McPEAK: What do you think Senator
12 Burton is going to say? Not I'll stick up for you.

13 MS. McPEAK: That's fine. Better transit.

14 MS. BORGONOVO: It's very easily
15 accessible.

16 MS. McPEAK: Very easily accessible on the
17 Bart.

18 See, this is what I wanted to flush out because
19 I will say to Senator Burton, no, it was the League of
20 Women Voters and NRDC who said this won't be sufficient".

21 CHAIRMAN MADIGAN: Annie, did you have
22 something? Not no, I didn't -- well, actually, for
23 northern -- what about did you have Santa Rosa on your list
24 to add?

25 CHAIRMAN MADIGAN: Yeah. Not because

1 we adding all of these --

2 CHAIRMAN MADIGAN: Yes.

3 MR. HILDEBRAND: -- to the previous list

4 of ten so we have now have --

5 CHAIRMAN MADIGAN: Yes, 15 or something.

6 EXECUTIVE DIRECTOR SNOW: 14.

7 MR. HILDEBRAND: 14?

8 CHAIRMAN MADIGAN: Yes.

9 MS. SOUTHWICK: May we hear the complete
10 list?

11 CHAIRMAN MADIGAN: Sure, the complete
12 list.

13 VALERIE HOLCOMB: And I just want to
14 remind you that one of the issues is to start the hearing
15 sufficiently after release of the documents so everyone has
16 a chance to read them thoroughly. Although we have a
17 ninety day public comment period we actually have four to
18 six weeks to hold the hearings so this is the list I
19 brought to you..

20 Stockton, San Bernardino, Salinas, Oakland,
21 Pasadena, Antioch, Costa Mesa, Fresno, Chico, Sacramento,
22 and your proposing adding San Jose, Santa Rosa, San Diego
23 and Redding?

24 MS. SPIVY-WEBER: And Los Angeles. I
25 think there should be one in Los Angeles.

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1 didn't we have one there last time?

2 VALERIE HOLCOMB: You did have one there
3 last time. Not and that was actually pretty well -- that's
4 not the north part of the State, though. That won't count
5 for the north.

6 EXECUTIVE DIRECTOR SNOW: Not really.

7 MS. McPEAK: So what is the superior
8 California location, Robert?

9 MR. MEACHER: Where would be --

10 MS. McPEAK: Yeah, I think you need to --
11 you decide and we are going to make a decision.

12 MR. MEACHER: Let's see, didn't we do one
13 in Red Bluff last time?

14 VALERIE HOLCOMB: Redding.

15 There was a workshop in Red Bluff in January.

16 MR. MEACHER: It might be easier if we did
17 it in Redding, come back to Redding.

18 CHAIRMAN MADIGAN: Okay. All right.

19 What else?

20 This would be some sort of agreement that this
21 is a reasonable list, recognizing that there will probably
22 be some additions somewhere along the line for any number
23 of reasons. Yes?

24 Alex.

25 MR. HILDEBRAND: I'm not quite clear. Are

1 CHAIRMAN MADIGAN: In the City of LA?

2 MS. SPIVY-WEBER: Uh-huh (yes). Not,
3 what.

4 ANN NOTTOFF: What, would you cancel
5 Pasadena?

6 CHAIRMAN MADIGAN: You'd move it from
7 Pasadena --

8 MS. SPIVY-WEBER: I'd move it from
9 Pasadena to Los Angeles (inaudible).

10 CHAIRMAN MADIGAN: Lester.

11 EXECUTIVE DIRECTOR SNOW: I'd just
12 indicate historically we get a lot better turnout in one of
13 the satellite cities because of easier transportation or
14 whatever it is. You know, whether we have it at the
15 airport or, I mean the locations that we've used in Los
16 Angeles tend not be as accessible or user friendly. We've
17 always gotten higher turnout in other cities, whether it's
18 Burbank or Pasadena, so I just would make that observation.

19 VALERIE HOLCOMB: These were suggested by
20 metropolitan water district that we have Pasadena and Costa
21 Mesa. Interior Los Angeles, these are all in the evenings,
22 also, so there is many locations that aren't suitable for
23 an evening public meeting.

24 MS. SPIVY-WEBER: If you're trying to get
25 inner city folks to come to more of these meetings they are

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1 just simply not going to drive up to Pasadena in the
 2 evening. They are more likely to even to downtown LA to
 3 Mick or to Skag or to the chamber or someplace. Those
 4 aren't hard to get to.
 5 MR. BURTS: I think and then adding to that
 6 I think what is key is that if your reaching out to other
 7 groups, as Tom said, their needs to be a real targeted out
 8 reach program that's more than just posting and publishing.
 9 There has to be a pretty aggressive targeted out reach
 10 program if we are looking to get new input but I would
 11 think some place in central Los Angeles would be better.
 12 MS. McPEAK: Ask the speaker to be
 13 present.
 14 CHAIRMAN MADIGAN: Howard.
 15 MR. FRICK: You're having one in Stockton.
 16 Fresno, I'll probably get a little argument
 17 here, but Visalia would be a little more central to the
 18 south end of the Valley since your covering from the north
 19 end, and it might not be as easy access for some people.
 20 CHAIRMAN MADIGAN: Okay. Thank you.
 21 All right. What do you want to do here, Mr.
 22 Snow?
 23 Do you want to try to summarize it again what
 24 we are going to do here?
 25 EXECUTIVE DIRECTOR SNOW: Yeah, I'm try to

1 some discussion there, just background.
 2 CHAIRMAN MADIGAN: I think Howard's point
 3 is that it gets you farther south in the Valley. You know,
 4 your another, whatever it is.
 5 MR. PYLE: We were trying to not ask again
 6 for one in Bakersfield so I think Fresno is kind of a
 7 compromise location and central to a large --
 8 MR. FRICK: Visalia.
 9 MR. PYLE: Visalia is a compromise
 10 location and central to a larger group of agricultural
 11 people than just Fresno.
 12 CHAIRMAN MADIGAN: Visalia it is.
 13 Anybody have any real issue with Visalia?
 14 MS. McPEAK: Well, just would -- I would
 15 want to check with Senator Costa.
 16 Are you comfortable that that would be his
 17 concurrence as well?
 18 MR. PYLE: (Affirmative nod)
 19 MS. McPEAK: Okay. If you're speaking for
 20 Jim, that's good.
 21 EXECUTIVE DIRECTOR SNOW: Somebody should.
 22 CHAIRMAN MADIGAN: No, I'm glad we are
 23 having this discussion.
 24 Okay. Now we are down to LA. Gene.
 25 MR. ANDREUCETTI: Obviously, CalFed's

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1 summarize it.
 2 And then I guess I'd like BDAC to help winnow
 3 this and make some decisions. We have a couple here. The
 4 potential is simply adding the four that we discussed, the
 5 three Sans and the one Redding, and then we had -- and so I
 6 guess I'd like BDAC to make a recommendation on that,
 7 whether it's adding all four or some sub-group of it.
 8 Then there is the issue of Los Angeles, whether
 9 that should be added and Pasadena deleted or what the
 10 preference is there. And then Howard's suggestion of
 11 substituting Visalia for Fresno and so I think I'd like to
 12 end up with BDAC's kind of official recommendation on those
 13 matters.
 14 CHAIRMAN MADIGAN: All right. Let's start
 15 out with the assumption that it is the ten, plus the four,
 16 three Sans and a Red.
 17 Is there consensus on that so far absent the
 18 question of where the Los Angeles meeting is or whether it
 19 is two and whether it is Visalia or Fresno?
 20 So so far we are okay.
 21 So now the question is Visalia or Fresno --
 22 VALERIE HOLCOMB: May I interject
 23 something here?
 24 We did a Public Workshop in Visalia with the
 25 idea that we would do a hearing in Fresno so there will be

1 program has a far reaching impact on the citizenry of
 2 California. I'm just wondering if we ought to look at some
 3 innovative approach, rather than doing the ten or sixteen
 4 meetings is there an opportunity to reach more people
 5 through some kind of a highly advertised TV program were
 6 you can get feedback from folks all over the countryside?
 7 I keep asking myself. We have these select
 8 communities that we are going to and what do we expect from
 9 these select communities?
 10 Are they being impacted more than others or do
 11 we have people that are smarter in these areas and,
 12 therefore, we are going to get feedback that we haven't had
 13 before what is it that we are trying to do with this
 14 information?
 15 CHAIRMAN MADIGAN: Well, you are trying to
 16 do a couple of things.
 17 You are trying to get it disseminated as
 18 broadly as possible and you are trying to get feedback that
 19 would be important information to get for sharing the final
 20 EIR/EIS.
 21 Well --
 22 EXECUTIVE DIRECTOR SNOW: well, let me
 23 start with kind of the out reach effort, which I think is
 24 the basic issue that Gene raises, and so we do have all
 25 have our documents on the Internet.

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1 We do have a role-out strategy to try to
 2 maximize the media's interest in this when we put the
 3 document on out.
 4 We've already done massive mailings to people
 5 notifying them that this is starting to happen and we are
 6 getting post cards back in and what people want to see and
 7 how they want to see it, whether they want to see it on CD
 8 Rom or the Internet address so we are doing quite a bit of
 9 out reach which is -- and so you can call that kind of
 10 selling the program or making people aware of it, which is
 11 very different than the legal requirement associated with a
 12 public hearing, which is a formal place that people can
 13 come to formally register their comments on the program.
 14 Now, obviously we could comply with NEPA CEQA
 15 requirements by having a single hearing in Sacramento, and
 16 so we've already gone to the step of having really more
 17 official hearings than any other program. We've got 17
 18 under our belt and now we are headed to, what, 16 or 15
 19 additional once so I think that aspect of it's covered and
 20 I think any suggestions people have about additional venues
 21 we can use to get the word out.
 22 We do plan on producing a video that we hope TV
 23 stations will use at least clips from it as they help
 24 explain a number of different brochures and publications
 25 and mailings.

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1 So hopefully we'll get people's attention and
 2 then with -- if they want to comment, they can either
 3 submit written comments or show up at one of these 14
 4 hearings to provide the comments.
 5 CHAIRMAN MADIGAN: Roberta.
 6 MS. BORGONOVO: I'd like to suggest that
 7 if you want to leave Pasadena there is an agreement that
 8 you also will go to Central Los Angeles and then if you
 9 have to choose between you choose Central Los Angeles.
 10 MS. McPEAK: I agree with Roberta.
 11 CHAIRMAN MADIGAN: Tom.
 12 TOM DECKER: Are we not neglected on one
 13 massive growth area. Maybe you do not hear from this area,
 14 which is Camarillo, Oxnard, Santa Barbara, the other big
 15 Southern California region.
 16 I don't know whether that is of interest or
 17 whether it is still off the beaten track in terms of our
 18 water issue. It is a big -- it's one of the big five place
 19 and you've covered all of the others, the last of the big
 20 five.
 21 CHAIRMAN MADIGAN: Valerie?
 22 VALERIE HOLCOMB: No comment.
 23 CHAIRMAN MADIGAN: No comment?
 24 Lester.
 25 EXECUTIVE DIRECTOR SNOW: (Shrugs

1 shoulders)
 2 CHAIRMAN MADIGAN: No comment.
 3 TOM DECKER: I throw it up (indicating)
 4 only.
 5 CHAIRMAN MADIGAN: Well, let's take the
 6 first one first hear.
 7 There is a suggestion that it is important
 8 enough to have one in Central Los Angeles in the City of
 9 LA, that we would have one there and that there would also
 10 be an evaluation as to whether a second one was still
 11 required in Pasadena given that some portion of the
 12 Pasadena service area would be covered by a central LA
 13 meeting.
 14 Is that something that meets with everybody's
 15 -- good morning, Byron.
 16 MR. BUCK: Good morning. In the interest
 17 of domestic tranquility, I will abstain from this.
 18 MS. McPEAK: I thought you might like to.
 19 She's still, you know.
 20 VALERIE HOLCOMB: We never talk about this
 21 at home.
 22 MR. BUCK: Yeah, right.
 23 CHAIRMAN MADIGAN: should we let Byron off
 24 the hook on this one or should we engage him in this one?
 25 What the heck, come on, Byron.

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1 MR. BUCK: I remember the colors of the
 2 trucks, Mike, so don't go there.
 3 CHAIRMAN MADIGAN: Okay. All right.
 4 That's right.
 5 Okay. So we are going to do that. That's okay
 6 with everybody?
 7 Now, the last question. Lester, as you think
 8 about whether or not you need a meeting in Pasadena as well
 9 as a meeting in Central Los Angeles you might think about
 10 whether you need a meeting in the Oxnard, Camarillo, Santa
 11 Barbara area as well as a meeting in Central Los Angeles or
 12 whether you are going to get sufficient coverage between LA
 13 and the San Bernardino --
 14 EXECUTIVE DIRECTOR SNOW: We'll leave
 15 those at our discretion at this point.
 16 CHAIRMAN MADIGAN: Already. Does this
 17 meet with everybody's approval Brenda.
 18 MS. SPIVY-WEBER: I just wanted to wave in
 19 favor of adding Santa Barbara or some location. I think it
 20 would be important --
 21 CHAIRMAN MADIGAN: All right. There is
 22 some encouragement for Santa Barbara.
 23 Incidentally, everybody, Brenda Southwick. I
 24 think we mentioned last time Brenda joining us from the
 25 Farm Bureau.

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1 MS. SOUTHWICK: Thank you.
 2 CHAIRMAN MADIGAN: Welcome, nice to have
 3 you here.
 4 EXECUTIVE DIRECTOR SNOW: Can I summarize
 5 to make sure we are not miscommunicating?
 6 CHAIRMAN MADIGAN: Sure.
 7 EXECUTIVE DIRECTOR SNOW: Okay. We have
 8 the original ten that Valerie read.
 9 However, we've added Central Los Angeles with
 10 the potential that it could replace Pasadena and we will
 11 just do further calling of people in the area to make that
 12 assessment.
 13 We have switched Fresno to Visalia and we have
 14 added San Jose, Santa Rosa, San Diego, Redding, and we have
 15 left open, which we will evaluate, is a Santa Barbara
 16 Oxnard hearing.
 17 CHAIRMAN MADIGAN: Okay.
 18 EXECUTIVE DIRECTOR SNOW: And so we'll
 19 simply evaluate that and make a determination then and
 20 we'll publish the list.
 21 CHAIRMAN MADIGAN: Lester can hence forth
 22 represent that this is a consensus view of BDAC?
 23 EVERYONE UNANIMOUSLY: (Affirmative nod)
 24 CHAIRMAN MADIGAN: Steve, I knew we could
 25 do it.

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1 MR. IZMIRIAN: Thank you.
 2 By the way, Lester, you were not in the room.
 3 Tom Graff complimented you on your Op Ed piece in response
 4 to Risener.
 5 EXECUTIVE DIRECTOR SNOW: Did I miss that?
 6 MR. BUCK: We do have it recorded.
 7 MR. IZMIRIAN: Wanted to talk a little bit
 8 about what you'll actually see. It will probably be as
 9 tall a stack as you received last March when the EIS/EIR
 10 package came out and it's primarily the impact analysis
 11 document, whether it's the impact analysis document itself,
 12 the primary volume and then a set of appendices.
 13 The key one of those is the Phase II report
 14 which is where I'll spend the bulk of the time this morning
 15 and the Phase II report is important because it really
 16 describes in total in a much more strategic way the CalFed
 17 program and that is different from the CalFed programmatic
 18 decision, which is the programmatic decision for focus of
 19 the impact analysis.
 20 So first on the impact analysis document itself
 21 it is frankly a typical kind of EIS/EIR impact analysis
 22 document.
 23 You have the Table of Contents in your package
 24 there laying out a project description, alternative
 25 descriptions, the comparison of environmental consequences

1 and then assessment of various impacts with the mitigation
 2 monitoring plan, Agency involvement and index and two
 3 direct attachments to that document on analysis and a very
 4 short piece on the whole CalFed Program decision.
 5 And on the programmatic level that is one thing
 6 that we've had in discussion the programmatic decision for
 7 CalFed is one that allows for a lot of things to occur and
 8 a decision-making process to lay that out. It is not the
 9 basis for going forward with any specific project. All
 10 specific projects will need their own project level impact
 11 analysis document to proceed.
 12 What the programmatic level analysis does is
 13 give you a base from which to build those projects. It's
 14 analysis that would have had to occur for each individual
 15 project and the whole purpose of this effort is to get that
 16 out in the broadest way so that you can deal with
 17 individual projects subsequently.
 18 The Phase II report is what we released last
 19 December, a revised Phase II report, and the key thing
 20 about that was it was a description of the whole CalFed
 21 Program, which actually goes beyond the balance of the
 22 programmatic decision itself.
 23 It's a complete picture of the CalFed Program
 24 and what it is is just, you know, background and
 25 introduction, then development of the preferred program

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1 alternative and then getting into a description of what
 2 that preferred program alternative is itself.
 3 And that also then will go into what is it we
 4 anticipate that occur in Stage One of the program after.
 5 One of the things that we will be changing in
 6 this report this time around, and I think it is a very
 7 important and distinct change, is starting to talk more in
 8 terms of how the pieces work together in strategies to
 9 address the specific problem areas.
 10 One of the problems we've run across is we've
 11 broken things into program elements that has tended to have
 12 people focus on a particular program element and argue
 13 about that without taking into account the strategic view
 14 of how those different program elements work together to
 15 try to solve problems in the different resource areas.
 16 So when we look at the revised Phase II report
 17 the major changes we'll be looking at is integration of the
 18 four resource area at that time gist.
 19 This is going to be hopefully a lot better
 20 description again of how the pieces work together to make
 21 for a successful program in terms of solving the problems.
 22 The specific things that will come into that
 23 are the water management strategy which Lester will talk
 24 about in the next item, included the integrated storage
 25 investigation and the environmental water account will be a

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1 big piece of that.

2 The multi species conservation strategy,
3 governance and finance which we'll be talking about this
4 afternoon, water transfers, water use efficiency and
5 program use implementation will all be areas that will be
6 revised in the report.

7 And again to emphasize what we are talking
8 about is strategies that flow out of the elements.

9 A lot of the focus has been down here and I
10 think what we are going to moving into with the Phase II
11 report is to try to put the focus here, strategically, how
12 do these things work together to try to get to the solution
13 of the problems we have.

14 And I want to talk about the general -- the
15 nature of the decision of getting there, the one particular
16 strategy dealing with that real brief now, in terms of the
17 what the programmatic decision actually is at a
18 programmatic level there are various things that you can
19 have as resulting actions of give kinds.

20 The first are real actions, actions to make
21 improvements of one kind or another. Ecosystem restoration
22 actions, water use efficiency actions, a variety of
23 specific actions that go directly to their own project
24 level environmental review and on to implementation.

25 There are also anticipated still a large number

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1 of investigations that need to occur, investigations and
2 studies, some of which will lead again directly into
3 actions that will have supplemental environment -- excuse
4 me -- project specific environmental review leading to
5 implementation.

6 There are also some investigations that will
7 lead to what would be supplemental Tier 1 environmental
8 analysis, things that are outside the scope of what could
9 possibly happen that aren't part of the programmatic
10 decision but could very well go with this supplemental work
11 here, again, to actions and on into implementation.

12 And a good example of this at this point in
13 time, for example, is the isolated facility.

14 It is not something that would flow directly
15 from the programmatic decision but potentially could flow
16 from investigations and supplemental Tier 1 analysis
17 towards improvement of a particular area.

18 And the example of that in particular is
19 drinking water quality improvement.

20 This is an area that we've done a lot of work
21 on particularly in the Phase II report development and this
22 is one of our more complex overheads.

23 I just had to let you know that in case it
24 wasn't obvious that this was -- and this is the absolute
25 summary version of this, but it's the nature of the

1 decision, that we are getting a Tier 1 programmatic
2 decision on drinking water quality improvement, and what we
3 did in the Phase II report in December was say we have a
4 specific goal for drinking water quality improvement, and
5 that is a particular public health protection level
6 equivalent to, you know, a certain bromide level, a certain
7 TOC level in source water, but the key is at the tap we are
8 commit to a public health protection level and what it
9 takes to do that.

10 And so we've laid out specific actions and sets
11 of studies to try to accomplish that goal.

12 The actions would be some conveyance
13 modifications, the action would be source control along the
14 aqueducts in the Delta and upstream; summary operation,
15 storage and operations in combination which will be
16 elucidated through the integrated storage investigation the
17 environmental water account. Some set of specific actions
18 that will lead to improvement in drinking water quality
19 that will be specific things that could happen right away.

20 On the other level we very much committed to in
21 the report a variety of studies of a lot of different ways
22 that you can improve drinking water quality.

23 Certainly, there will be ongoing monitoring of
24 assessment of the system. Additional treatment measures,
25 you know, water agencies provide some level of treatment.

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1 There's all the time different research being done on
2 treatment.

3 CalFed needs to make sure that more treatment
4 research occurs and goes on over time. We need to keep
5 track of that.

6 Health effect studies. A year ago or was it
7 two years ago there was a release of a study that indicated
8 that Brominated compound could have significant short-term
9 health effects for pregnant women.

10 Those studies need to be further duplicated or
11 replicated and see if there are more health effects there
12 than we have previously known. We need to have that
13 information.

14 Alternative sources of water. This is one
15 specific thing that CalFed has not looked at really and
16 that is the different water suppliers that depend on Delta
17 water. Are there alternative ways of getting them water,
18 some things that many people have considered unthinkable
19 over time, for example, in the Bay Area, East Bay Mud and
20 San Francisco of high quality water. The other areas do
21 not. Is there some way that water exchange can be used to
22 improve the quality of water for all user in the Bay Area
23 equally in Southern California are there alternative ways
24 of achieving the high quality of water? Are there water
25 exchanges that can be made through southern San Joaquin

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1 Valley folk in the Friant area that would result and I am
2 prove water quality for Southern California. These things
3 are politically very difficult but guess what we found out
4 doing other things it's politically very difficult. The
5 important thing is to make sure we look at all of them.
6 Additional conveyance measures. If you want an isolated
7 facility here go right ahead because that is a conveyance
8 measure that needs to be part of the assessment of what it
9 takes to improve drinking water quality and further
10 assessment of storage and operations to improve drinking
11 water quality.

12 All of these things going through expert panel
13 reviews in 2003 and 2007 leading to whatever kinds of
14 actions it takes to improve drinking water quality. That's
15 the key thing that we did in December and what we are
16 following through on now is making sure that we've set that
17 gold.

18 The other thing I'd say about this just as a
19 key thing is my little star burst up here, I think it's my
20 sunshine, sunshine on this process of a panel -- a BDAC
21 panel that would be various stakeholder groups looking at
22 and making sure that as this goes on over time it's all
23 being done and it's all being done in the right way. So
24 that you've got a very clear and obvious progression of how
25 we are going about improving drinking water quality.

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1 So this is the kind of a nature where down here
2 down here you will actually have supplemental program --
3 programmatic environmental analysis plus project specific
4 environmental analysis to get you to whatever set of
5 actions come out of that.

6 So this is the kind of strategy that we are
7 laying out and going to be laying out in the Phase II
8 report in the water quality area, for example. There will
9 be areas for water management, levee system integrity and
10 ecosystem restoration as well.

11 So that's kind of the times of things you'll
12 see in the Phase II report and I'll be happy to answer any
13 questions.

14 CHAIRMAN MADIGAN: Tom and then Frank and
15 then Alex.

16 MR. GRAFF: I'm curious why for water
17 management you haven't had an integrated water management
18 investigation as opposed to an integrated storage
19 investigation.

20 MR. IZMIRIAN: Actually, you why don't we
21 defer that to the next item because that's where we are
22 talking about the water management strategy overall?

23 CHAIRMAN MADIGAN: Okay.
24 Fran.

25 MS. SPIVY-WEBER: If the Department of

1 Water Resources decides to do a major study, if you will,
2 of the baseline numbers in Bulletin 160, will that study be
3 added to your blocks and then possible supplemental actions
4 if you -- if the numbers turn out to be significantly
5 different from what you are expecting as a baseline?

6 MR. IZMIRIAN: Those could have some
7 relevance to this.

8 Primarily they would not but whether you're
9 talking about changes in demand, it could be that some
10 change in demand effects how much C water is sucked in
11 through the pumps. Probably that will be of a limited
12 effect. It will maybe be useful here but not a primary
13 study that needs to occur by any means.

14 MS. SPIVY-WEBER: But would it be on water
15 management?

16 MR. IZMIRIAN: Oh, yes.

17 MS. SPIVY-WEBER: So it would fall into
18 the study's category on water management?

19 STEVE RICHIE: Yes, I think that would be
20 relevant information there. But also again for the
21 projections are good and useful information. What we want
22 to do is make sure we've got the tools in place so whatever
23 the demand is in the future we can help manage that.

24 CHAIRMAN MADIGAN: Alex.

25 MR. HILDEBRAND: I have two questions.

1 The first has to do with how forthrightly you
2 are going to knowledge the trade-offs in doing the things
3 you are talking about.

4 For example, you mentioned the potential of
5 trading high quality water south of the Delta for imported
6 water in order to give the better water to the urbans and
7 the poorer water to ag.

8 In the absence of Valley drain, which
9 apparently is the still off the table, that would
10 exacerbate significantly the ongoing accumulation of tens
11 of millions of tons of salt in the soils of groundwater
12 south of the Delta. Are you going to clearly analyze that
13 and be candid about the trade-off that's involved there?

14 In the Bay Area you are talking about making
15 the water quality poorer for some in order to make it
16 better for others.

17 Here you are talking about wanting to make it
18 worse for some in order to make it better for others.

19 It seems to me these trade-offs need to be
20 clearly examined and revealed whether you decide to do them
21 or not. That would be my first question.

22 The second question is are you coming up with a
23 preferred alternative for management of the water supply in
24 the San Joaquin River system in respect to both flow and
25 quality and water use efficiency, which is also involved

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1 there?

2 Or is that management still going to be exposed
3 later on?

4 MR. IZMIRIAN: On the first question, yes,
5 those trade-offs will be part of what's examined there
6 because I think that is important to making those kinds of
7 decision.

8 These things have not been looked at that much
9 and a lot of focus has been here. I think we need to make
10 sure we expose these both completely as well as all the
11 other information here. So I think those trade-offs have
12 to be properly assessed and analyze had.

13 Secondly, on overall management in the San
14 Joaquin Valley, I don't know if that's better to defer to
15 again Lester in the water management strategy discussion.
16 That's the way to deal with that.

17 CHAIRMAN MADIGAN: Okay. Sure.

18 Huali, did you have --

19 HUALI CHAI: Yes, this is a drinking water
20 improvement strategy quality and I notice you have under
21 studies listed treatment but why is there not also a
22 concomitant action that revolves around water treatment for
23 the elimination of these constituents that may have
24 negative health effects?

25 MR. IZMIRIAN: I think from our

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1 perspective there is not an obvious treatment action yet
2 because we are talking about a long-term water quality goal
3 here.

4 The treatment here I think is what might come
5 in play over time over the next ten years because, you
6 know, a lot of this is driven by -- the numbers that we set
7 for the public health protection goal were a reasonable
8 assessment of where things might end up in terms of what's
9 needed in public health protection, where drinking water
10 standards might be in ten to fifteen years as opposed to
11 what's in effect right now. And so we've laid this out as
12 a longer term strategy.

13 One other thing I would note here is this is
14 CalFed's strategy. I think one of the characteristics
15 you'll see of CalFed in the future is I don't see CalFed
16 doing a lot of treatment research.

17 I see CalFed being in a role of making sure a
18 lot of treatment research is going on, which is a much
19 different thing.

20 You know, we will have a coordinating -- a
21 bully pulpit kind of role as opposed to a direct research
22 role.

23 HUALI CHAI: So you have no plans during
24 Stage One to do any actual implementation of improved water
25 treatment or to encourage the use of existing techniques as

1 an action that's part of the drinking water quality --

2 MR. IZMIRIAN: If that became apparent to
3 do, I think we might do that.

4 I don't know if Byron would care to comment
5 because I know that California urban water agencies, they
6 looked at that extensively over the last two years.

7 MR. BUCK: Essentially that's going on.

8 It's just happening at the Agency level. There is over a
9 half a million dollars going on in treatment today just to
10 go where we are with Stave Two regulations now. What we
11 need to follow here is where are the next two stages in
12 that regulatory process going to put us and what is it
13 going to take to get there and treatment is part of that
14 equation but I need to be balanced against source quality
15 improvement.

16 CHAIRMAN MADIGAN: I have Roberta, then
17 Eze, then Rosemary.

18 MS. BORGONOVO: I wanted to go back to the
19 graphic.

20 Are we still using the face approach so that
21 the decision on the isolated conveyance, for example, is
22 made down near that supplemental Tier 1 going into Tier 2.

23 MR. IZMIRIAN: That could be a decision
24 based on the expert panel and their recommendations, their
25 recommendations, yeah, we've looked at all of this stuff

1 and we'll build an isolated facility.

2 Their recommendation could be we've looked at
3 this stuff and you need to do a suite of these things or
4 the recommendation could be everything is cooking along
5 just fine. You shouldn't do anything. So you can end up
6 with any array of those alternatives down here as part of
7 those possibilities.

8 MS. BORGONOVO: And so 2003 and 2007 is
9 not of any significant. It doesn't mean that in 2003 you
10 are going to make that decision.

11 It just meanings that you are going to be doing
12 a sort of a check in along the way?

13 MR. IZMIRIAN: Yeah, in 2003 and 2007 is
14 what we committed in the Phase II report was to convene
15 panels of outside experts, nationally renown people to give
16 advice to CalFed legislature on drinking water improvement
17 quality goals.

18 MR. BUCK: Those coincide with the
19 regulatory schedule on the EPA drinking water.

20 MS. BORGONOVO: And going back to storage
21 I guess we are going to get into a discussion of the
22 integrated storage investigation, but is it all priority
23 that there is more storage or is it part of the
24 investigation that's going to come out so that you really
25 get a cost benefit analysis and you decide what you need to

1 do in order to go to reliability down in Tier 2?

2 MR. IZMIRIAN: We have not specified here
3 in terms of storage and operations whether it's existing
4 storage or new storage.

5 The point here is as part of the evaluation of
6 the ISI and the department water account can you use
7 existing or new storage as one of tools to help achieve the
8 drinking water quality improvement goal and that's all we
9 are saying here. We haven't gone farther than that in
10 terms of this automatically means there is some project out
11 there ready for drinking water quality improvement.

12 We are not at that level at all.

13 CHAIRMAN MADIGAN: Eze.

14 MR. BURTS: Talk a little bit more about
15 the Drinking Water Council, what its role would be and what
16 specific authority would it have in this process.

17 MR. IZMIRIAN: Yeah.

18 The Delta Drinking Water Council in its process
19 as we've talked about it and we are not at a decision point
20 yet but the way I envisioned it is in effect of a sub-group
21 or BDAC Advisory Council we have in the future similar to
22 the ecosystem roundtable. That's a sub-group of this. So
23 it would be a Federally chartered body that would be made
24 up of people from all of the different communities that
25 have an interest in this to make sure, and their role in

1 effect would be to verify that, yes, all of these things
2 are happening and happening in an aggressive and
3 credibility way.

4 We are not leaving any stones unturned to make
5 sure is that we get to the drinking water quality
6 improvement goal. So their role would really be
7 second-guessing CalFed all the way through the process.

8 CHAIRMAN MADIGAN: Rosemary.

9 MS. KAMEI: Yeah, I guess I had a similar
10 question.

11 I just wanted a little bit more information on
12 is this the vehicle that's going to provide stakeholder
13 input throughout the whole process?

14 MR. IZMIRIAN: This would be a specific
15 vehicle for stakeholder process through a formal Advisory
16 Council role.

17 You know, we haven't even gotten the thinking
18 of the long-term CalFed, how would stakeholder input occur
19 over time beyond those kind of formalized process.

20 CHAIRMAN MADIGAN: I think this afternoon
21 when we start the governance conversation hopefully one of
22 the first questions is the stakeholder involvement and
23 participation in that process.

24 Byron.

25 MR. BUCK: Kind of stepping back a little

1 bit from the drinking water strategy itself back to the
2 EIR/EIS I think there is an issue particularly in Southern
3 California right now of managing expectations as to what
4 the EIR/EIS and the hearings are to be all about and I
5 think there is an expectation in many corners that this is
6 a decision document and we should know exactly how things
7 are going to happen for the next ten years out of it and
8 that's clearly not what it's for. It's a NEPA CEQA
9 compliance document but to that end I think the CalFed
10 management is something I've been working on with parts of
11 my own members is to explain to them how the decision
12 strategy is going to layout to focus them on the revised
13 Phase II reported and focus them on getting what we need in
14 the Record Of Decision, both in terms of specifics that can
15 be put on the action pathway and also the decision-making
16 structures and how those processes are going to work so
17 people can reaffirm or at least affirm the possibility that
18 they are going to have their interests met. There is a lot
19 of concerns and particularly in Southern California and
20 even parts of the Bay Area that the drinking water quality
21 concerns while we have a very good long-term goal there is
22 nothing there yet in terms of a pathway to getting to what
23 they need and that they be overtaken by drinking water
24 standards regulatory activities of EPA and pushed into a
25 situation where they will have to spend ten times the cost

1 on treatment versus source control solutions that they wish
2 had been decided on earlier. So I think we have a lot of
3 missionary work we need to do to adjust people's
4 expectations as to what's in the EIR and what's that really
5 for and how CalFed's going to address these long-term
6 issues.

7 CHAIRMAN MADIGAN: Okay.

8 May I ask if there are members of the audience
9 who would like to say anything on this specific matter?

10 MR. McDONALD: Mike Maloney, we weren't
11 allowed to speak on the committee you were setting up to
12 visit. Can we speak on that not or should we speak on
13 general comments?

14 CHAIRMAN MADIGAN: Why don't you speak on
15 general comments on the committee, that's fine.

16 GARY BOBKER: Thanks Mike, Gary Bobker,
17 Bay Institute. A comment and a question.

18 This kind of strategic approach I think is very
19 constructive and very transparent, which is important for
20 CalFed, and I'm glad to see that this is happening for
21 drinking water as well as for the water management strategy
22 and the strategic plans for water use efficiency and
23 ecosystem restoration.

24 My comment is that in the past I think that a
25 lot of the good work that goes into some of the strategic

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1 planning and other activities of CalFed isn't adequately
2 integrated into the program plan documents and there are
3 pieces of it scattered around the program plan document,
4 the EIR/EIS text, the appendices, et cetera, and that
5 leaves some question in my mind as to how well the results
6 of all of this activity actually are integrated into the
7 program's final decision and the status of the documents
8 as, you know, whether they are part or not part of the
9 programmatic EIS or the final and the ROD. So a better
10 integration of the strategic planning results into the
11 documents is going to be an important thing, maybe not for
12 the draft revise but certainly for the final.

13 And the question that I had was your strategy
14 applies to drinking water. I know that strategic planning
15 is occurring in a number of other areas. What about
16 obviously water quality, the water quality program is much
17 broader than just the drinking water aspect. How is CalFed
18 looking at a strategy for implementing the broader water
19 quality program?

20 MR. IZMIRIAN: Yeah, on the water quality
21 front we've actually convened a set of folks over the last
22 few weeks partly to make sure that we've got a sense of
23 this and also partly to take other components of the water
24 quality program and start to try to describe them in a
25 similar way where we've got a clear goal and you've got a

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1 clear descriptive layout of how things will work over time
2 and one of the interesting challenges we've come across on
3 that in particular is the interaction of the regulatory,
4 existing regulatory structure with the CalFed structure.
5 For drinking water we've in effect said we don't care what
6 the regulation turn out to be. We've already set a goal
7 that is kind of separate from that. That does seem to be
8 affected over time but we've started to move from there.
9 On the environmental water quality side, you know, to fall
10 into jargon many people have heard things about TMDL's,
11 Total Maximum Daily Load and being considered about the
12 regulatory bombshells hitting and requiring various
13 different kind of control actions out there and we are
14 working right now to try to describe how that will be
15 integrated into the CalFed process and vice versa so that
16 people can see how those things will work together to
17 achieve particular water quality goals.

18 CHAIRMAN MADIGAN: Okay. Thank you,
19 Steve.

20 MR. IZMIRIAN: (Indicating)

21 CHAIRMAN MADIGAN: One more, Roberta. I'm
22 sorry. Yes.

23 MS. BORGONOVO: I wanted to follow up on
24 Gary's question.

25 Perhaps what Gary was asking, he can comment,

1 this is important because it's part of your face
2 decision-making. It's part of your adaptive management and
3 so will it been part of Record Of Decision, meaning there
4 are a number of productive arenas going on but if it's not
5 a part of the Record Of Decision then that means it remains
6 advisory instead of part of the way we operate.

7 MR. IZMIRIAN: The strategies we are
8 talking about here, and we've talked about this a fair
9 amount of time, is the program elements have been useful
10 but in fact really the strategies are what is most
11 important to us and yes this whole package will be part of
12 the Record Of Decision.

13 GARY BOBKER: Just to clarify what the
14 concern was,, you know, for instance if a lot of energy is
15 put into developing new objectives or criteria for
16 evaluating selecting specific implementation actions, I
17 think the concern has been that old approaches and new
18 approaches both are -- have been in the documents and -- in
19 different places and I think it's really important that as
20 the program revises the documents -- or actually revises
21 its work to do the strategic thinking that the results
22 actually replace the older text, the older sort of
23 directives that are embedded in the text. Otherwise I
24 think there is inconsistency and then there is some
25 question about which is -- you know, what trumps what.

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1 MS. BORGONOVO: And if I could just
2 follow-up with TMDL's, I was in another discussion where
3 that issue came up.

4 What you're really saying is the regulatory
5 arena stays. TMDL's are going to be set as they should be
6 in that regulatory arena. What CalFed will do is look at
7 ways in which you can use the program to help meet those
8 TMDL standards?

9 MR. IZMIRIAN: Use the program to achieve
10 whatever standards. TMDL's to me are a fairly complex
11 thing that depends on substantially on science and I think
12 CalFed has an extremely important role of making sure that
13 science is built-in.

14 CalFed have also have an important role in
15 trying to make sure that the actions that result from those
16 TMDL's are the right actions and things that we can help
17 make happen through incentive type of efforts, through
18 connection with other parts of the program. Yes, we want
19 to make those things happen.

20 Because the regulatory systems do not go away.
21 CalFed does not replace regulatory systems.

22 CHAIRMAN MADIGAN: Okay. Thank you very
23 much. Thank you, Steve, good job. Thank you everybody.

24 The next item on the Agenda is to continue
25 discussions on water management strategy and, Lester, --

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1 EXECUTIVE DIRECTOR SNOW: Yes.
 2 CHAIRMAN MADIGAN: -- you are going to
 3 lead us on this one.
 4 EXECUTIVE DIRECTOR SNOW: What I want to
 5 try to do is I'm going to try to bring together the -- all
 6 of the different pieces that are going on underneath the
 7 broad banner of the water management strategy and there is
 8 quite a few of those, and I hope in going through this that
 9 I actually end up answering Tom Graff's question earlier
 10 about kind of the relationship between the water management
 11 strategy and the ISI and how it looks like there is a lot
 12 more work going into the integrated storage investigation
 13 and water management strategies. So I wanted to try to
 14 discuss that specifically I also hope I can get to Alex's
 15 question, probably at the end, and talk about how water
 16 management strategy applies to the San Joaquin and some of
 17 the specific studies that we'll have going on.
 18 Now, I ended up drawing the short straw to do
 19 this presentation because just about every one of these
 20 elements has a different work team with a different
 21 crossover on it and we didn't want to have bobbing heads,
 22 different people getting up and down on this, but I have
 23 them in the audience so I intend to answer no detailed
 24 questions. We'll refer that immediately to others here.
 25 What I want to do is kind of go through -- do

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1 you recall in the December draft we laid out probably for
 2 the first time a major public document, the idea of an
 3 integrated water management strategy, and I think what your
 4 going to do that Steve's already talked about in the Phase
 5 II report is actually moving that up a notch and talking
 6 about an integrated resource strategy, which are those four
 7 strategies, with modern management strategy being one of
 8 the major pieces. So I want to talk about that. I want to
 9 move into where we are with the goals and objectives under
 10 the water management strategies, some work that staff,
 11 Lauren and some stakeholders have been going through to try
 12 to refine those objectives, actually change it from the
 13 four that were in the December draft to three with a lot of
 14 subcategories underneath it.
 15 I want to spend a bit of time talking about
 16 integrated storage investigation both in terms of its
 17 content, what we intend to do under that investigation as
 18 well as its role in the water management strategy and why
 19 it's treated a little differently than some of the other
 20 potential actions. I want to try to update you on the
 21 economic evaluation of water management tools. It's kind
 22 of the economic evaluation of all different tools in the
 23 water management strategy, will try to give you a sense of
 24 preliminary findings on that issue.
 25 We think of the economic evaluation in at least

1 two discreet parts, one that we want to do at this broad
 2 programmatic level and once you move on to implementation.
 3 You have to keep refining, you have to keep refining the
 4 tools in terms of making sure they are cost effective in
 5 trying to reach the objective you are trying to achieve.
 6 Finally the environmental water account,
 7 continues to be one of the more promising complicated
 8 things we've got going on in CalFed.
 9 It really is a very specific manifestation of a
 10 water management strategy using a lot of different tools to
 11 achieve ecosystem objectives without a heavy prescriptive
 12 regulatory approach.
 13 And so it's kind of the realtime manifestation
 14 of how water management strategy could work.
 15 There will be a little bit of a stroll down
 16 memory lane as updated.
 17 I'm sure you all can read this in the back of
 18 the room so I don't need to go over it. Okay. Nobody is
 19 paying attention.
 20 You may recall in the December draft we had
 21 four and I'm going to go into a little more detail of how
 22 that's been modified. We haven't rejected anything. It
 23 was just a better way to package the different objectives.
 24 The simple issue here is that when you're
 25 managing a water supply there isn't just one thing you are

1 trying to accomplish and that's been a challenge in this
 2 program a long time because people would want water
 3 management strategy to be one thing, set a yield target and
 4 hit it and that has almost nothing to do with the issues we
 5 have to manage for, water supply availability, what your
 6 water supply is is an important part of it but it's not
 7 setting one objective and figuring out how to hit it.
 8 You have a number of different objectives. You
 9 have a lot of different tools, each of which perform
 10 differently and many of which perform in different time
 11 frames and so it isn't that this tool, whatever it is, is
 12 the superior one and it solves all of your objectives. It
 13 doesn't it gets to the issue of a package, a suite of tools
 14 that address the different objectives.
 15 Kind of, I guess, just a simple statement about
 16 what we are trying to accomplish with the water management
 17 strategy. And so it isn't the water management strategy,
 18 also, I think to clarify, it isn't just for the water users
 19 in the system, the diverters, it really is about managing
 20 the whole system for all of the different benefits.
 21 So we are describing the menu of tools and I
 22 think where we are in water management strategy is not only
 23 describing the menu but the attributes and limitations of
 24 the tools, where they fit in, what they help out on, what
 25 they don't help out on.

We need to try to identify a strategy for Stage One to begin implementation and perhaps ultimately more importantly to the stakeholder communities is the long-term decision-making framework, to continue to evaluate and implement the different actions.

Now, let me drop into the goals.

The first one is the issue of increasing the utility of available water supplies, which ends up being largely a water quality issue, the higher the water quality the more things you can use it for and the cheaper it is to use it for other purposes or to recycle it.

Objective focuses on water supplies, increasing waste water reclamation, reducing TDS through blending, recycling so you can say that under water management strategy is also where we help out, facilitate, the issue that Steve was just talking about, water quality, to make sure that you're taking actions that might do some blending to reduce bromide levels, certainly, to reduce TDS, which then makes it more cost effective to do waste water treatment.

CHAIRMAN MADIGAN: Tom --

MR. GRAFF: A quick question on that point.

Are you also looking at multiple use, say, in the context of the American River where a downstream

environmental, urban and agricultural beneficial uses.

So this is kind of the water supply one. It's really the access to supplies, whether it's access to existing supplies, and that's a fundamental point because a major premise of at least two of our strategies is that you can improve the reliability of existing supplies and reduce the impacts of diversions associated with the existing supplies by taking actions, changing timing of diversion, habitat restoration, and so that's an important point, as well as the issue of new water supplies.

CHAIRMAN MADIGAN: Richard.

MR. IZMIRIAN: I'm glad you have economically efficient manner there.

Will there be any attempt to measure the economic efficiency here and if so, what will be the indicators of efficiency?

EXECUTIVE DIRECTOR SNOW: We are making an effort of evaluating the economic feasibility, economic effectiveness of these strategies and I'll try to get into that, indicators I think is kind of straightforward in terms of looking at changes in average price and changes in marginal price of projects that we would bring on line.

So let's at least hold that until I get into the economic evaluation in a moment.

The third objective, improve flexibility.

diversion would allow the same water to be used not only for consumptive purposes but also for environmental and recreational purposes?

EXECUTIVE DIRECTOR SNOW: I think it's probably fair to say we haven't gotten into that level of detail.

In terms of recent discussions we have tended to support the forum's deliberations, the Sacramento forum's deliberations on that, which is you could say is a more detailed CalFed on a localized basis to try to work through those.

A broader answer not specifically on the American is that the environmental water account, as they go through these exercises of trying to improve fisheries while meeting water supply needs they do consider where the water is located, how many miles of river can run through it to provide benefits before it's diverted.

I don't think in that exercise that they've looked at all on that specific issue on the American, at the mouth of the American, versus Folsom South, although, that clearly is a topic in the forum discussions.

CHAIRMAN MADIGAN: Okay.

EXECUTIVE DIRECTOR SNOW: The second goal, the second of three, is to improve access to existing or new water supplies in an economically efficient manner for

This one is important overall to CalFed. It's simply the recognition that every time in this state that we've gotten this 30 or 40 or 50 year vision it hasn't worked out that way and so no matter how smart we think we are or how sophisticated our models are we know as we sit here today that our image of 20/20 or 20/50 is wrong and so we need to design a system that has inherent flexibility in it that you can manage it for the great uncertainty in the future, and that ends up being pretty important.

I mean, it's an important issue because it drives you to putting together packages of actions instead of deciding that this is exactly what will fix the system.

Now, just for illustration, then we can back up and go into more detail on each of these three if you would like to, and Lauren can help out on some of the discussion that has been held.

The point here in terms of the strategy is, again, there is no silver bullet on any of these and all this does is kind of illustrate that you can taken increased utility and break it into components for ag water use efficiency and urban and reducing TDS for recycling, take all of those different objectives and you look at the methods that you have.

Some are real clear. If you're trying to increase utility of available water supply and you have a

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1 objective for ag water use efficiency, then your ag
2 conservation program is pretty important to that, and
3 probably your wetlands conservation program isn't, to show
4 the, you know, the gross comparison but there are other
5 incidental types of impacts that contribute to that
6 objective.

7 And so you start seeing, you know, that there
8 is a strategy, that these things are linked together, that
9 given tools -- in this case this happens to be conveyance
10 issues, South Delta improvements, can affect in number of
11 these things; conservation, urban conservation can affect a
12 number of these different objectives and so there is a
13 package that needs to come together.

14 And when you do that, kind of my words, you're
15 trying to figure out what's the right thing to do in
16 putting together a reasonable package, you clearly of the
17 issue of economics. You don't want to lead off with your
18 most costly options unless there is other considerations of
19 some sort but obviously that's a general -- pretty good
20 rule of thumb so you want to do it in a cost effective way.
21 You want to look at actions and packages that have multiple
22 benefits and something that we tend to forget that was
23 pretty important back in the beginning of this program, you
24 want to comply with the solution principles.

25 So you want to put together actions that reduce

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1 conflicts in the system, that are equitable, obviously
2 affordable is somewhat related to the first, that they are
3 durable, you have some hope of actually implementing it.

4 What's the point of coming up with a strategy
5 you can't implement, and that they don't redirect impacts.

6 The classic one that we talked about early on,
7 the reason that this one is here, if we solve Southern
8 California, Bay Area, Valley forest problem by negatively
9 impacting the rural communities above the dams, what have
10 we accomplished other than moving the source -- moving the
11 net impact to another location?

12 And so I think these really become important
13 when you are putting together the water management
14 strategy, these particular principles.

15 Let me pause there. My next step is to move on
16 to integrated storage investigation and maybe I should
17 pause to see if we have specific questions on the
18 objectives.

19 CHAIRMAN MADIGAN: Tom.

20 MR. GRAFF: Just as a follow-up to my
21 earlier point I think you should add multiple use of water
22 in some circumstances to your -- you know, to the sub-group
23 of objectives in that first goal.

24 MR. HILDEBRAND: I agree.

25 EXECUTIVE DIRECTOR SNOW: Okay.

1 Can I ask some of those that participated,
2 Lauren, or others, stakeholders, was that specifically
3 discussed?

4 It seems like it's a logical fit --

5 MR. BUCK: (Negative headshake)

6 EXECUTIVE DIRECTOR SNOW: That was not,
7 Byron?

8 MR. BUCK: (Negative headshake)

9 EXECUTIVE DIRECTOR SNOW: Okay. It seems
10 like that should be added.

11 MR. BUCK: (Affirmative nod)

12 EXECUTIVE DIRECTOR SNOW: Okay.

13 Okay. The ISI, why is there something -- maybe
14 I should back up one step here.

15 And we actually have activity going on in most
16 of these areas. Some of the people in this room are quite
17 familiar with the focus group that's going on. It's really
18 developing an implementation strategy for ag water use
19 efficiency. Because of the conflict we've had in the past
20 on that and the complexity of it so there is a
21 implementation strategy being developed to implement this.

22 In each of these areas there is different
23 degrees of implementation strategy being developed, and the
24 most attention, though, has been on what we are calling the
25 integrated storage investigation to refine how these tools

1 would be would work and been implemented but there is
2 implementation work going on in the other areas.

3 Why is this a little bit different?

4 There is a couple of things that distinguish
5 the integrated storage investigation. There's some groups
6 of tools that I'll show later are clearly cost effective.
7 There is really not much question that a whole family of
8 tools are good to be done and they can be implemented in an
9 incremental fashion. You can't get burnt too much.
10 Conservation is a good example, the all too low toilet
11 program.

12 There is really no question more money needs to
13 be put in that and if for some reason you made a mistake
14 you don't put as much into it next year. Storage isn't
15 that way.

16 You make a decision on storage, big storage,
17 and it's a significant initial investment and presents less
18 opportunity for incremental implementation. You don't
19 approach particularly surface storage by building a foot at
20 the dam a year. It doesn't work out that way and so you
21 have to be a lot more clear on how it fits in. So it costs
22 a lot, less opportunity for incremental investment. This
23 isn't as true for groundwater. That's an important
24 distinction. You can do incremental investment. Less
25 conducive to adaptive management, not resistant to it. You

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1 can change operating parameters but you want to be clear
2 going into it what your operating parameters are or you're
3 going to end up in a big fight.

4 And so that's why we've indicated we need a
5 pretty significant piece of work done to see how it fits in
6 as part of the water management strategy so we don't make
7 one of these mistakes.

8 And so what we have done, and I think we have
9 the most recent version of the ISI in your packet or
10 pickup packet, I'm not sure which, that really takes three
11 specifically related things and one kind of incidental
12 issue and packages them into a single study to look at
13 groundwater storage, surface water storage, new surface
14 storage, power facility reoperation, and then as they'll
15 show in a moment, the integration of those three in
16 cooperative operation or conjunctive operation.

17 And then kind of not unrelated to the type of
18 work that we'll be doing here a clear assessment of
19 priority fish barriers to deal with in the State.

20 To some extent right now what's happening at
21 CalFed is we have ad hoc proposals from people who kind of
22 -- who want to look at tearing down their least favorite
23 dam or modifying it in some fashion.

24 We would like to have a priority assessment of
25 which ones should be looked at, and we're seeing some great

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1 work being done on Butte Creek, Battle Creek, and it would
2 be nice to have kind of a priority list to start working
3 through.

4 What we've shown in our last version of the ISI
5 is a little more of structure to the program, a little
6 clearer indication that we really need to evaluate
7 conjunctive operation, and I'll give you at least one
8 specific example of that.

9 You know, if you look at hydro power
10 reoperation in isolation, it may not show too many benefits
11 because if you think of it, a lot of the, you know, the
12 water that generates the power flows to somebody, anyway.
13 If you look at simply surface storage adding new or
14 modifying the existing structure, it may have problems
15 associated with it, the same with groundwater. So what we
16 want to do here is pick some specific examples and look at,
17 for example, reoperation of Lake Almanor, which flows into
18 Oroville and how you could reoperate that and how you could
19 operate that in conjunction with Butte County groundwater
20 basins to see how you could use the system to get more
21 multiple benefits.

22 It's not inconsistent with what Tom and Alex
23 were talking about, how could you get more bang for the
24 buck out of that system of water?

25 Right now all three of those operations take

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1 place independently, completely independently, and so what
2 benefits can you get by looking at it as a system and
3 that's part of what we want to do here.

4 We want to have stakeholder involvement in
5 terms of some sort of storage technical team.

6 Obviously, any time you talk about storage,
7 those are fighting words. If it's somebody's reservoir so
8 we want to have the participants engaged with us we want to
9 use the ecosystem restoration science panel to evaluate
10 hydrograph time value of water having a direct coordination
11 with the ecosystem program.

12 This is the economic evaluation water
13 management alternatives, all right, the EEWMA.

14 See, Mike, these are the ones that we could
15 just make up, right? (Laughter).

16 And we have a fairly established groundwater
17 technical team that's made up of a lot of the local people
18 that are concerned about groundwater management and
19 encroachment on the groundwater basin to establish a pretty
20 good track record. We'd wanted them engaged in this.

21 By the time of the ROD we hope we can start
22 filling in the water strategy matrix a little bit better to
23 start dealing with those three issues the three differences
24 about storage, to have a better indication of the
25 appropriate mix, and approximate sizing of how storage

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1 works and fits into program. A much better fix on timing.

2 Also, integrating -- again, when we argue in
3 the stakeholder community about storage, it's all about
4 water supply.

5 What we want to make sure is that we bring to
6 the table is the issue of water quality and the other
7 benefits that accrue out of storage.

8 And we would expect even at the time of the ROD
9 that there is going to be a need for continuing studies on
10 storage, particularly this integrated operation.

11 CHAIRMAN MADIGAN: Lester -- I'm sorry, --
12 Byron.

13 MR. BUCK: You're indicating here that by
14 the time of the Record Of Decision there is going to be a
15 refined at least band with storage needed for whatever
16 purposes?

17 Right now in the EIR/EIS we've got 0 to 600 --
18 or 6 million 250. This implies that we are going to have a
19 definition of need for a certain, narrower range of
20 groundwater and surface water, is that correct?

21 EXECUTIVE DIRECTOR SNOW: Yes.

22 MR. BUCK: That will probably be refined
23 further on the way out?

24 EXECUTIVE DIRECTOR SNOW: Right.

25 And I would add that we are starting to get

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1 some of that definition out of the environmental water
2 account analysis as they try to reoperate the system.
3 You'll see when I get into that they've been
4 unable to do it without some additional storage, access to
5 groundwater storage or something like that, and so we hope
6 we can continue that and then refine by the Record Of
7 Decision.

8 CHAIRMAN MADIGAN: Fran.

9 MS. SPIVY-WEBER: Are you looking at
10 groundwater storage in Southern California, the Chino basin
11 and then some of the other large groundwater storage areas?

12 EXECUTIVE DIRECTOR SNOW: Yeah, I think we
13 are kind of adding that to our list.

14 If you noticed in our Phase II report, we
15 didn't draw too many dots in Southern California.

16 A lot of the Metropolitan subagencies have
17 pointed out that they think there is greater potential in
18 Southern California than is recognized and so we're adding
19 that consideration.

20 Howard.

21 CHAIRMAN MADIGAN: Howard.

22 MR. FRICK: I guess you are in the process
23 of looking at groundwater storage to get efficiency you
24 have to work in conjunction with surface storage. Or it
25 gets very costly if you can't operate those things over

1 the cost curves look like and just seeing what happens when
2 you implement certain tools and how it affects the price of
3 water, how elastic water demands is to price changes within
4 the range of actions that we are looking at and how do
5 constraints, proposed constraints on your choices affect
6 the selection of the tools and so to do that we've let
7 different groups of stakeholders express their preferences
8 do, this, don't do that, and then we just took a look at
9 it.

10 And so we've got three that I will show you and
11 partially explain to you for the south coast region.

12 And let me do this real quickly if I can.

13 Obviously, this here as labeled is the average
14 cost and so what that means is that for every new action
15 that you bring on whatever the cost of that new project,
16 say it's a reclamation project, you simply average it into
17 your historic costs, the costs that you've already had.

18 Marginal cost means that for every project you
19 bring on that new increment of water is priced at the
20 higher cost. So you can kind of get two views here.

21 The difference between these two curves
22 (indicating) is this one assumes full implementation of the
23 best management practices so you are getting conservation
24 implemented out of the shoot.

25 And so you see down here what you would expect

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1 many months in a wet year.

2 EXECUTIVE DIRECTOR SNOW: I think that's
3 the benefit of not evaluating them in isolation, that you
4 can show potentially more benefits by conjunctive
5 operation.

6 And another example down in your region is
7 looking at -- although we've had discussions with PG&E we
8 have not had discussions yet with Southern California
9 Edison but you think of the big creek projects Millerton,
10 and then the groundwater basins, what can you do by
11 operating them conjunctively?

12 Okay. Let me move to economics, you and
13 there's been a group of folks. We have Mel Williams and
14 Susan Hoffman here that have been doing a lot of the work.
15 We've got a lot of stakeholders involved in this, and
16 they've developed their way of discussing this in these
17 workgroups. I'm not sure I'm going to mirror that, exactly
18 with the right words, and so they can correct me as I try
19 to move forward.

20 But we've had an effort, trying to do some
21 preliminary screening, broad programmatic basis, how do
22 these tools stack up, how do they fit together, and they've
23 done that, you could almost say, by not using Bulletin 160.

24 That's a funny way to say it but they are
25 really letting supply and demand and costs determine what

1 demand to be as a result of those things, and you see
2 represented here (indicating) the different water
3 management tools that you've put in place.

4 And so this one is the -- what's called the
5 unconstrained no subsidies preference set, no subsidies, I
6 think, speaks for itself.

7 Unconstrained I don't remember exactly what
8 that means.

9 Noel or Susan, do you want to quickly explain
10 what unconstrained means?

11 UNIDENTIFIED MAN: Unconstrained means
12 that the water management tools are included in the
13 scenario purely on the basis of cost and not some other
14 considerations and so unrestrained is also cost effective.

15 EXECUTIVE DIRECTOR SNOW: Okay. We have
16 another set here that was developed and was called the
17 environmental preference set, and that constrained the
18 different took place that you would use and set a priority
19 and some tools happened first and then some tools perhaps
20 not happening at all and so you can see some changes in
21 average cost a little bit earlier, a significant change in
22 marginal cost because of the tools you were doing earlier,
23 and if I remember right, what's happening here is you are
24 doing some front loading on some significance reclamation
25 projects.

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1 Now, I'm going to do three of these so here is
2 the third one.
3 The third one is the San Joaquin Valley
4 agriculture preference set for the South Coast Region so
5 kind of interesting.
6 Again, the same thing, a little different
7 strategies, you know, you've got the same spread here
8 (indicating), a little difference in average cost, but I
9 guess one of my points as I start looking at this material
10 is -- I'm not going to do this perfectly -- a wide
11 variation of preferences. You know, excluding some
12 actions, front loading some very expensive but perceived to
13 be environmental sounds options like reclamation, has
14 relatively minor impact on what we are seeing in terms of
15 the range of demands that are out there.
16 And keep in mind for us on the Bay-Delta
17 program this is total use in the South Coast Region.
18 Currently only 800,000 to a million acre feet
19 of this is manifest in the Delta and so when you break it
20 down that way these kind of differences almost get lost in
21 the noise as we apply it to the CalFed Program and demand
22 on the Delta with very different policy assumptions set
23 forth.
24 So some preliminary observations of work that
25 is continuing. There is little economic difference among

1 and so some are just read I to go, do it incrementally,
2 some need just much greater refinement of the specifics,
3 how you would operate and how you would proceed, but the
4 big issue for me is the first one. Nothing gets thrown out
5 when you look at it in this fashion for economic reasons.
6 And I'm looking for my summary.
7 Okay. Let me back up and summarize in a
8 different way to a slide I used earlier in terms of what
9 are the considerations then?
10 I mean, given this then you need to continue to
11 refine your economic evaluation. You need to consider the
12 issue of multiple benefits, compliance with the solution
13 principles and the multiple benefits as modified by Tom and
14 Alex of trying to maximize your reuse or the value of water
15 in the system.
16 But again for me where we are headed with this
17 nothing gets pulled off the table because of economics.
18 Maybe I'll pause there before I go to the
19 environmental water account.
20 CHAIRMAN MADIGAN: Sunne.
21 MS. MCPKAK: Lester, I appreciate very
22 much that summary.
23 The way you've concluded it, that nothing gets
24 pulled off the table because of economics, is an
25 interesting dimension to this debate -- discussion that

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1 the many supply options and the supply options are kind of
2 plat. It's not the big shift that I think people were
3 expecting. The results were similar between the sets
4 except when the sets or the preference were simply excluded
5 the group of tools and so when you forcibly remove tools,
6 then you see differences between the sets. That doesn't
7 result in a big shift in your water demands or how it's
8 expressed in the Delta.
9 Water supply price changes, at least in this
10 analysis, have relatively small effect on urban demand.
11 Now, let me jump to my layman's view of this.
12 I mean, how I take a quick look at this.
13 This quick economic evaluation shows that in
14 terms of the categories of tools they are all economically
15 viable. You don't do this analysis and say, oh, we need to
16 remove these two categories of tools because they don't
17 work.
18 Now, by the same token, though, it does show
19 you that some tools are clearly cost effective need to be
20 done, conservation. You don't have to labor over that one.
21 That's a no brainer, get moving, it can be done
22 incrementally. You need to proceed with it.
23 Some tools you need additional evaluation
24 because while we show storage has a meaningful role not all
25 projects -- you can find a project that would violate that

1 quite honestly my members have an interesting time with too
2 you would expect the business community to be very
3 interested in economics and want to have the most cost
4 effective solutions and that's definitely where we come
5 down.
6 Where this approach on economics actually gets
7 very challenged is in recycling and reclamation, which is a
8 very expensive piece of the mix, and we have had a lot of
9 internal debate and come down with because of issues that
10 never can fully be economic impacts, potential economic
11 impacts from environmental damage from any other option
12 that is never -- you can never fully at the time
13 internalize into this model that is a matter of a
14 principle, which we would call an ethic, that we optimize
15 reclamation and have a certain that cost effective
16 recycling reclamation is a very important part of this mix.
17 Now, I say that, Hector, having been through a
18 lot of internal debates over if you just laid out the costs
19 that we can ascribe and evaluate today to support in this
20 mix one of those options that is today a pretty expensive
21 one but one that's entirely doable and technically feasible
22 that extends the current supply.
23 How does that actually get taken into account
24 and evaluated?
25 Is it the solution principles as you were about

1 to go to?

2 But I want to really highlight that one.

3 EXECUTIVE DIRECTOR SNOW: Right.

4 MS. McPEAK: -- as understanding the
5 implications of the economic evaluation.

6 EXECUTIVE DIRECTOR SNOW: Well, I think
7 reclamation is the perfect example because it is actually
8 the one tool where there is broad support across basically
9 all stakeholder groups that it's something that we should
10 invest in. And I think it is a combination of probably
11 three things, and one is certainly the solution principles
12 where you are really trying to get a portfolio of
13 investments that improve the water situation.

14 One of the other ones is -- I'm not sure of the
15 right term to use -- but it also becomes a local investment
16 strategy because there's attributes of large scale waste
17 water reclamation that have very site specific benefits.

18 Golf courses come to mind, very heavy intensive
19 investment in there facility. They need to have a
20 guaranteed water supply and yet outdoor water use is
21 discouraged during short periods.

22 You invest in reclamation. You have a very,
23 very stable water supply that comes to certain types of
24 users like that that may be willing to pay more. It fits a
25 niche in certain integrated water management strategies.

1 And there was a third point that escapes me for
2 the moment but -- oh, I guess it was the issue that Tom
3 raised about just the whole philosophy or social value of
4 recycling and setting up a system that uses water more than
5 once and that's worth something. We all know that social
6 values are worth something and I think that's -- and then
7 also all of them aren't that spread that I showed on that
8 chart.

9 There is very cost effective reclamation
10 programs, also, just some are more expensive than others.

11 MS. SPIVY-WEBER: I think it would be
12 better to -- instead of -- golf courses are certainly a
13 good use of recycled water but a much more economically
14 compelling group are industries that need high quality
15 water.

16 In Southern California, Arco, Mobile, Chevron
17 are paying large amounts of money to -- and are preferring
18 recycled water because they can essentially control the
19 quality at the level at that they need to have it and that
20 is a sustained use of water. Sometimes with golf courses
21 when you have wet periods, they don't use the water so you
22 have a cycle on recycled water.

23 So focusing on industries and recycled water I
24 think is really the best way to go if you want to make it
25 pay in the long run.

1 MS. McPEAK: And Byron is also going to

2 say but others water -- the quality of source water is an
3 issue, I know.

4 MR. BUCK: I would take issue with some of
5 the quality, for instance, they've had a lot of problems
6 with it. That's one of the reasons we deal with source
7 water quality so we can service the industry.

8 MS. McPEAK: I know, if people just
9 continue to flush, then we have a reliable supply.

10 MR. BUCK: With salt water so your
11 recycling.

12 CHAIRMAN MADIGAN: Okay, guys.
13 Go ahead, Lester.

14 EXECUTIVE DIRECTOR SNOW: Okay.

15 Environmental water account, I'm going to try
16 to do that quickly.

17 In fact, this is one of those areas where we've
18 had intensive effort going on nearly on a daily basis with
19 different stakeholders using real world hydrology to try to
20 reoperate the system.

21 It is a way of -- a manifestation. Water
22 management strategy, and Lauren has shown here that it
23 actually fits under at least two of the objectives in the
24 water management strategy which is shifting the type of
25 diversions and exports to less biologically sensitive time

1 periods and securing reliable water supplies for the
2 environment.

3 And so it's a way of actually making
4 significant improvements in environmental water quality and
5 doing it in a way that it is not an automatic subtraction
6 from water supply reliability.

7 I think at your last meeting staff kind of went
8 over a structure in terms of the different things that go
9 into an environmental water account, money, and in the
10 early years of the program money will be the largest piece.

11 Hopefully, as you move forward you make some
12 physical improvements that allow you to do the sharing and
13 you have the ability -- I don't want to get too technical
14 -- but the flex standards sounds ominous but actually the
15 accord in '94 set up some parameters that were intended to
16 be flexed the inflow export ratio in the Delta so you start
17 managing that to generate water and benefits from a
18 perspective of the environmental water account and that you
19 have the ability to move this environmental water in the
20 system.

21 Money obviously gets translated to a large
22 perspective. Transfers by water options, you might buy
23 storage capacity, the ability to store water in the
24 reservoir. You might pay for conservation or induce
25 conservation through a program.

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1 Modify export pumping in the Delta to reduce
2 entrainment and help with the Delta flow patterns, but you
3 have the ability to capture that water in some fashion,
4 either by being returned by the environmental water account
5 or pumping when it's more conducive to it or to flow palate
6 earns in the Delta.

7 Also, with storage, you modify storage to deal
8 with both flow patterns as well as temperature issues. You
9 bring all of this together and you end up with an operating
10 scenario where you've got greater fish protections. You've
11 avoided a prescriptive approach to fisheries protection and
12 you've been able to maintain or improve water supply
13 reliability.

14 Where they seem to be evolving to and I think
15 we have a number of the stakeholders in the room that might
16 want to contribute to this. Pete Rhodes and Gary I think
17 is quite familiar with what's going on at EWA -- but
18 clearly on day one after the Record Of Decision you don't
19 have too many things in place and so you needed a chunk of
20 money to make this approach work.

21 You have to have the ability to purchase water.
22 You have to have the ability to vary the standards like the
23 inflow export ratio. Clearly there is a conclusion we have
24 to screen the major diversion in the Delta. You need to
25 have access to storage north and south of the Delta.

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1 That's becoming part of the strategy.

2 And you have to be able to use the full
3 existing capacity of the pumps in the Delta.

4 One of the things that has come out of this, if
5 you can't use the full existing capacity, you're not
6 talking about adding pumps or adding canals, that's where
7 you get the flexibility to operate the system; more water,
8 the shorter periods of time you'll be able to shut it off
9 after you've moved the water when and where you want to
10 move it.

11 Okay. Let me continue with some major
12 findings.

13 What they are finding instead of a crediting
14 system where the environment gets credit, the water users
15 do something and there is credit given, it's kind of a
16 gallon for gallon approach, there is actual water, a gallon
17 of water that is to be use for ecosystem benefits.

18 Let me see here.

19 The third bullet is probably significant.
20 When we started on this I think the emphasis in the game
21 was to see how you could produce environmental benefits.

22 Then what was realized if you weren't careful
23 you could get some good environmental benefits but water
24 quality went bad on you and you were worsening the water
25 quality in the Delta -- in the Delta and for the export

1 community.

2 And then also you could obviously operate so
3 water supply reliability got worse and so one of the things
4 that happened over the last three or four weeks was trying
5 to integrate those three things to produce the ecosystem
6 benefits, try to actually enhance water quality and provide
7 water supply reliability, and if you operate the structure
8 properly, you can do that. I think that's what the
9 findings are.

10 Also, on this issue new water supply would
11 increase your ability to exercise an account like this, and
12 I'll just give you one example.

13 They operated a lot of models with a modified
14 version of inDelta storage.

15 One of the islands as part of the Delta
16 wetlands project and they actually tied it into Clifton
17 Court and so when they had that additional storage, it made
18 a big difference in how you can do an environmental water
19 account and do these things with three other factors.

20 With that I think I'd like to close and keep in
21 mind if you want to get into a more detailed environmental
22 water account we have some of the participants that have
23 been in these painfully long meetings to develop the EWA.

24 CHAIRMAN MADIGAN: Tom.

25 MR. GRAFF: One thing you didn't mention

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1 is what the baseline is in environmental water.

2 I mean, where are we on that and what effect
3 has the recent set of decisions coming out of the Federal
4 district court in Fresno had on that?

5 EXECUTIVE DIRECTOR SNOW: I guess I have
6 to say I've kind of lost track how we are doing the
7 modeling.

8 Maybe Pete or Gary or someone else can remind
9 me if we are modeling both -- we had at least two baselines
10 at one point. I would simply -- Pete, why don't you come
11 up to the microphone there. On the second point, I guess I
12 would just answer that first, from a personal perspective,
13 the wranglings on B-2 have been very annoying and highlight
14 how unproductive it is to argue over which molecule of
15 water belong in which account as opposed to just figuring
16 out how you need water for the fish and going and getting
17 it and that's kind of where we've been. I don't care
18 whether you call it B-2 or biological opinion under the
19 accord it's irrelevant to me. Let's get the water and do
20 the action for fish.

21 That's not the official position of CalFed or
22 its member agencies or --

23 MS. McPEAK: And congratulations for
24 saying it.

25 EXECUTIVE DIRECTOR SNOW: -- Or the

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1 national broadcasting, whatever.
 2 CHAIRMAN MADIGAN: Member FDIC.
 3 EXECUTIVE DIRECTOR SNOW: Pete can you
 4 answer.
 5 PETE CHADWICK: We're essentially using a
 6 dual baseline approach. We wrangled for awhile and argued
 7 back and forth fruitlessly. We determined that clearly it
 8 was a policy question but it was a policy question that
 9 posed great difficulties. So we wanted to proceed so we
 10 went and are in the process of using both baselines.
 11 So we are basically able to compare with and
 12 without in Delta B-2. It was the only way we could see to
 13 make progress in this area.
 14 CHAIRMAN MADIGAN: Alex and then Roberta.
 15 MR. HILDEBRAND: You know, Lester, when I
 16 listen to you give one of these very competent, logical,
 17 objective presentations, it makes me feel good, but --
 18 CHAIRMAN MADIGAN: And that makes all the
 19 rest of us feel good, Alex.
 20 MR. HILDEBRAND: -- but in practice it
 21 doesn't look that way.
 22 From the perspective of those of us who are
 23 dependent on the in-channel water supply in the South Delta
 24 -- and this could apply to other places but let me stick to
 25 that -- the perception is that it's full of hypocrisy,

1 pumps they do it. If we ask them to do that in order to
 2 mitigate -- to reduce the impact of the Federal pumps on
 3 the low tides when we have no barriers they say, oh, well,
 4 that would cost money for the pumpings so we don't do it.
 5 We reiterated that just this week in response to a request
 6 of ours that they do this.

7 We currently have people in the South Delta who
 8 cannot irrigate during the low tides. We are in a low tied
 9 cycle right now. They procrastinate and argue a little bit
 10 and by and go the low tides will be gone and that's it. In
 11 the meantime people are getting hurt.

12 Now, we have this South Delta improvement
 13 investigation that's been going on.

14 I don't know just what it was they wanted to
 15 improve but we were -- the South Delta interests were very
 16 explicitly excluded from participation in developing this
 17 investigation.

18 The investigation has come up with two
 19 alternatives and we're told that the policy committee will
 20 be asked tomorrow to choose between those two.

21 Either one of those alternatives would make
 22 matters considerably worse than they are already. They
 23 don't prove -- from our respect they don't improve anything
 24 at all. They make it worse.

25 And furthermore if you adopt one of those, it

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1 disregard and bias.
 2 Let me give several examples.
 3 The fish agencies want to have this river
 4 barrier. It's good for the fish. We agree with that. It
 5 dewater and destroys the circulation of other channels of
 6 the South Delta.
 7 We need the tidal barriers to mitigate the
 8 impact of the export facilities, and they work very well.
 9 Current barriers would do specifically better and if you
 10 had all four of these barriers you could orchestrate the
 11 way you managed all four of them to be beneficial to all
 12 interests, but the fish people liked to have the river
 13 barriers but when you want to put in the tidal barrier we
 14 say we don't like barriers and so we are only allowed to
 15 operate them from June through September.
 16 The rest of the year we have no mitigation of
 17 the serious impacts of the export operation.
 18 Then the emphasis seems to be almost entirely
 19 on preserving the exports, increasing the rates of export,
 20 and we don't disagree with that, and on protecting the
 21 fish, but when it comes to protecting the in-channel water
 22 supply to the South Delta it's essentially no regard for
 23 that.
 24 If they want to protect the exports and the
 25 fish and can do so by pumping Federal water with State

1 precludes the solution to the mitigation of the impact of
 2 the projects on the South Delta, which was agreed to way
 3 back in 1991 in writing between the South Delta Water
 4 Agency and the Bureau of Reclamation and Department of
 5 Water Resources.

6 And so that lawsuit that we had was suspended
 7 but it's still there. Maybe we'll have to reinstate it but
 8 I don't think that's a good outcome to come to.

9 Then you come to dredging.

10 We have wanted to have some rather modest
 11 dredging done, which would have taken care of some of the
 12 people who are in trouble like today and to some degree
 13 would mitigate for the draw down of the export pumps for
 14 those people who happened to be in extra shallow places and
 15 there has been some willingness on the part of the bureau
 16 and the DWR to take a look at that but so far we haven't
 17 gotten anywhere. No permits have been requested. We keep
 18 hearing about, well, I don't know if they want to pay for
 19 it and so that hasn't moved.

20 The same agencies that don't like us to dredge,
 21 however, now want to do some massive dredging in the South
 22 Delta, which is presumed to substitute for the barriers
 23 which it would not substitute for. It would actually make
 24 matters worse in the areas that were not dredged. It would
 25 actually make matters worse with regard to reverse flow in

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1 the San Joaquin, which causes DO problems for the fishes
2 but the same agencies who are blocking us from doing a
3 modest job want to do a big dredging job.

4 So we run into all of these inconsistencies.

5 The bureau is purchasing this year something well over a
6 125,000 acre feet of water from tributaries in the San
7 Joaquin basin to provide pulse flow for fish going on right
8 now.

9 They also plan to buy another 50,000 acre feet
10 out of the Stanislaus to release for export later in the
11 year and all of those purchases are purchases which are
12 basically in the long-term reallocations of water from
13 summer flow, which we need, and which we need both for flow
14 and for quality, and re-allocate that for spring and fall
15 fish flow.

16 We've urged them instead of doing that to buy
17 water from contractors on the west side who would actually
18 fallow their land, whereas these other people are not
19 fallowing. They are just changing the time of use, and
20 they say, oh, we can't afford that. They are spending over
21 four million dollars for the pulse flow water this year and
22 I don't know how many million more for this export water.
23 They can't afford to buy water from somebody who would
24 actually fallow his land.

25 So from our perspective the thing just isn't

1 to have the capacity and moving water through the system
2 for these fisheries' benefits and then trying to minimize
3 the impact and it's for that reason that we have tried to
4 elevate the detail on a South Delta strategy in one of the
5 bundles and to be able to take to the policy group a
6 recommendation on an approach. It won't fine-tune
7 everything but here is how we are going to proceed with
8 those South Delta improvements.

9 In that deliberation we have what turns out to
10 be three options and there is differences between them but
11 the one that Alex is referring to has to do with these
12 barriers and so there is a one barrier option ahead of Old
13 River that everybody agrees has great benefits for old
14 fisheries and then there is a multiple barrier option that
15 has in one case two additional barriers, tidal barriers,
16 and in the other case three. The most controversial
17 barrier is the Grant Line canal barrier.

18 And we simply need to proceed and kind of work
19 through those issues in the broader context.

20 What we have found in the past is that when you
21 frame the question of should we have a barrier or no
22 barrier strategy, then you have people in intractable
23 positions and now we have it in a broader context of
24 implementing VAMP, of dealing with water supply reliability
25 and water -- the broader water management context and so we

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1 working the way it sounds, and we're very much distressed
2 about it. We've actually gone finally to the step of
3 requesting an injunction, which will be heard in court
4 tomorrow.

5 So I wish I could feel that things were being
6 operated the way they sound when you present it, and I'm
7 not blaming you for the failure that they haven't come out
8 that way, but that's what's actually going on.

9 EXECUTIVE DIRECTOR SNOW: I think if I
10 could add, Alex has raised a number of issues that
11 obviously would take some time on -- several days on, but
12 the thing that I want to point out and reinforce from what
13 Alex said is that there is a couple of moving parts here.

14 I just talked about the environmental water
15 account and what it takes to make that work, and I don't
16 remember if Alex said VAMP but he was referred to VAMP, the
17 Vernalis Adaptive Management Plan, which was the agreement
18 to implement one of the provisions of the court it's not
19 even a CalFed generated thing. It's an obligation from '94
20 to meet certain flow requirements at Vernalis, and then
21 there is one other issue, which I can't think of it -- oh,
22 B-2, the CVPIA water, and the commonality of all of those
23 things that you can talk about separately and argue about
24 separately the South Delta. They all involve South Delta
25 in some fashion and the ability to pump water, the ability

1 need to come up with a direction on how we are going to
2 proceed. Now, in the barrier alternative, and I'm probably
3 going into too much detail on this, but there are
4 operational limitations. The barriers can be quite
5 beneficial to South Delta.

6 Alex and others in South Delta have expressed
7 concern that the fisheries limitations have been put on
8 operation minimize the potential benefit and that's
9 probably going to be a continuing issue even if the policy
10 group indicates a direction, such as including barriers.
11 We are going to have to fine-tune the operational
12 requirements but we clearly have on our table what we are
13 trying to interject into this is a balance of a triangle
14 and that triangle on South Delta is export water supply
15 reliability, fisheries recovery and South Delta water
16 supply reliability is both stage water level and water
17 quality, and we've got to find the way that all three of
18 those improve with whatever our South Delta strategy is,
19 and many people will be the judge when we at least set a
20 direction and then try to fine-tune it as we move forward.

21 MR. HILDEBRAND: Let me just say that we
22 have no objection to the VAMP. It's the manner in which
23 the water is applied for the VAMP.

24 We have for several years proposed a way of
25 doing that that would not hurt us and would make far better

1 use of the water that Tom and I are in favor of but all of
2 you recently agreed to examine that.
3 I haven't heard that the examination is going
4 forward and if it is going forward, it is again a study
5 from which we were apparently excluded. I don't know which
6 is the case.

7 We just feel enormously frustrated here that we
8 are not being -- the third component you mentioned is just
9 being almost ignored.

10 CHAIRMAN MADIGAN: Roberta.

11 MS. BORGONOVO: I wanted to go back and
12 qualify the environmental water account.

13 Is it ecodollars or is it -- is that the source
14 or is it a variety of sources?

15 EXECUTIVE DIRECTOR SNOW: I suspect the
16 answer to that will be a variety of sources.

17 I don't believe that any of the gaming activity
18 has gotten into who should be paying for this but I think
19 that when this starts to lay out, you'll see some physical
20 investments in particular that there is -- it's got to be
21 the most direct beneficiaries. It could be the water user
22 for inner tides, for example, in other cases for water
23 acquisition for specific groups and fisheries I think there
24 is a strong argument you could use ecosystem restoration
25 dollars, such as the 290 from Prop 204.

1 But I think once you figure out how you could
2 make this work there is a significant discussion on proper
3 finance for the water.

4 MS. BORGONOVO: I wanted to go back to
5 Tom's question about B-2 and perhaps he could comment on
6 why that is significant.

7 Those of us who weren't party to the suit don't
8 know which ball the court is in, but if you have --

9 MR. GRAFF: Those of us who are in the suit
10 don't know either.

11 MS. BORGONOVO: -- but if it comes out
12 that 800,000 acre feet will be put back into the streams
13 for ecosystem restoration and that then is the baseline,
14 it's obvious that if you're using ecodollars, you will go
15 above that baseline and so that certainly makes a
16 difference from the ecosystem restoration point of view.

17 So we keep coming back to baseline. I just
18 think it's extremely important.

19 And at one point in CalFed, as you said, the
20 official position, I thought, was that it 800,000 acre feet
21 was part of the baseline.

22 EXECUTIVE DIRECTOR SNOW: Well, it is but
23 what remains to be seen is how you account for it.

24 That's why we as a community are in court
25 because it is not clear. I think once that has resolved

1 even if it's the Supreme Court that resolves it one day,
2 when my children are doing this, that is the final, I
3 guess, final accounting.

4 What my irritation, I guess, as I was
5 expressing earlier, is I think there is a fairly amount of
6 maybe we grudging consensus that we need to take those fish
7 actions and so for me somebody who is in theory trying to
8 accomplish something I don't really care which pocket I pay
9 for it out of. I just want to do them and so the arguing
10 over accounts go to some extent gets interfered with taking
11 the actions and evaluating them.

12 And so after we get through with all of this
13 and all of this litigation it shifts 50,000 acre feet from
14 one side of the baseline to the other. I just hope we
15 haven't foregone opportunities to make improvements over
16 that several year period of time.

17 CHAIRMAN MADIGAN: Okay. Thanks, Lester.

18 Let me ask if there are members of the audience
19 who wish to speak on this specific issue?

20 If not, then we will -- sure, of course.

21 AMY FOWLER: Hi, I'm Amy Fowler from Santa
22 Clara Valley Water District.

23 I would just like to make two comments
24 regarding the presentation I've heard so far this morning.
25 I've seen two flow charts, one presented by Senator Ritchie

1 on water quality, kind of the process of how the next seven
2 or eight years is going to proceed and then I've seen
3 another progress chart presented by Lester on the water
4 management strategy and I would really urge that Lester
5 talks to Steve and make sure that these two process charts
6 really have some overlap in the sense that I believe water
7 quality needs to be incorporated as an objective in the
8 water management strategy.

9 In Steve's chart I've seen a little box labeled
10 as storage reoperation, taking an evaluation of existing
11 storage, how they can be reoperated potentially to maximize
12 water quality, look at maybe even potentially additional
13 storage for that purpose.

14 But on Lester's water management strategy chart
15 in the ISI I don't seem to pick up on that water quality
16 objective as being incorporated into one of the objectives
17 of the strategy, and also similarly in the economic
18 analysis portion of the water management strategy I think
19 we need to take a serious look at the potential benefits to
20 water quality through some of the actions that can be taken
21 in ISI.

22 And a second comment I have is also related to
23 the economic analysis.

24 A lot of us embrace recycling. We think it is
25 an integral part of the future in providing for the

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1 solution for the whole State, basically.
 2 However, I wonder if in the economic analysis
 3 of that portion of recycling whether it takes into account
 4 its demand on water quality because you have to start with
 5 a fairly high quality water before you can implement
 6 additional recycling opportunities.
 7 And, also, recycling demands a lot of
 8 facilities.
 9 I'll use an example local to Santa Clara County.
 10 We have been investigating opportunities to
 11 maximize recycling in our county and we are also one of the
 12 agencies that really use or take conjunctive use to heart.
 13 Half of our supply is from the groundwater basin and so we
 14 have looked into recycled water, incorporating recycled
 15 water into our conjunctive use program but we find that we
 16 need a lot of storage in order to provide the blending
 17 before we can put that into the ground.
 18 And I was wondering again in the economic
 19 analysis whether that kind of facility needs as well as
 20 water quality needs are incorporated into the analysis from
 21 some of these components?
 22 Thank you.
 23 CHAIRMAN MADIGAN: Thank you very much.
 24 You didn't have to say it, Byron.
 25 MR. BUCK: (Negative headshake) I'm going

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1 home now.
 2 GARY BOBKER: Mike, can I ask to make a
 3 comment?
 4 CHAIRMAN MADIGAN: Sure, Gary.
 5 GARY BOBKER: Gary Bobker, Bay Institute.
 6 The work that's being done on the environmental
 7 water account, it's very constructive. I think a number of
 8 us in the environmental community thinks that it's
 9 worthwhile to pursue but it is very much, I think, in the
 10 initial stages a lot of work needs to be done and we should
 11 minimize that.
 12 One thing I do want to emphasize about the
 13 environmental water account is that up till now it's
 14 primarily focused on direct impacts of the water projects,
 15 reducing fish mortality, which is very important.
 16 But CalFed's ecosystem restoration program has
 17 broader components for improving environmental water
 18 conditions and increasing the tools, environmental water
 19 tools, and one of the -- so one of the biggest outstanding
 20 issues for the environmental water account is going to be
 21 how an account can be used not just to affect fish
 22 mortality but to be operated in conjunction with
 23 acquisitions upstream and with flow related habitat
 24 improvements, both on the rivers and in the Delta. That
 25 kind of integration does need to happen if the

1 environmental water account is going to be the primarily
 2 flow related tool for CalFed's year review.
 3 CHAIRMAN MADIGAN: All right. Then we
 4 will move on to the last of the items before the house this
 5 morning, and that's conservation strategy update.
 6 Marti Kie I understand is ill today and can't
 7 be here but Ron Rempel is with us from DFG.
 8 Ron, thank you for joining us.
 9 MR. REMPEL: This morning I wanted to go
 10 over what we're calling the multispecies conservation
 11 strategy that will be part of the overall CalFed Program.
 12 There it is. How about that (indicating).
 13 And we are going to look at trying to blend a
 14 number of things into this multispecies conservation
 15 strategy and it's intended to really look at how we are
 16 going to deal with a number of State and federally listed
 17 species or species that might be listed in the future.
 18 The multispecies conservation strategy is going
 19 to establish conservation goals for the overall program for
 20 various species out there for analyzing one of the effects
 21 of the various CalFed actions on those species, looking at
 22 programmatic conservation measures.
 23 And this all helps blends together in looking
 24 at how do we deal with the State and Federal Endangered
 25 Species Act authorizing take of species associated with

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1 various CalFed actions.
 2 And in doing that we are looking at both the
 3 Endangered Species Act, the Federal Act, the State Act, and
 4 we are also going to use natural resource conservation planning
 5 act process as part of the overall conservation process for
 6 the CalFed Program.
 7 We are also looking at what are the foundations
 8 for the assurances and regulatory certainty, assurances to
 9 make sure the species are conserved, the regulatory
 10 certainty so folks that they will be able to carry out
 11 projects in the future and also to make sure that we have
 12 commitments that these conservation measures will be
 13 carried out over the long-term.
 14 Look at what is the overall scope of this
 15 conservation strategy, we have a large geographic area.
 16 That includes the focus area and the ERP ecological
 17 management zones, some future potential reservoir sites,
 18 the service area and the watershed planning area because we
 19 could have activities in any of those areas that result in
 20 the take of State and Federal endangered species and we
 21 want to be sure that the enhancements can be taken care of
 22 out there because occasionally we have that situation where
 23 to make things better for a species we may impact a few
 24 species out there.
 25 We are looking at 242 species in the evaluation

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1 process and a total of 18 habitat types and several groups
2 of species.

3 Just to give you at least an idea of what we
4 are talking about here in that former overhead, we are
5 looking at the conservation strategy ecosystem restoration
6 program area, the area in the darker green, the cross-hatch
7 area down in the Southern California picks up a portion of
8 the service area outside of the rest of the CalFed Program
9 areas and then we have the watershed planning area and how
10 we deal with some of those issues up there in species
11 because we have projects that will occur up in the
12 watersheds, and then we have the outer Bay Area, which is
13 very difficult to see. It blends right in with the line of
14 the State there on the left-hand side but looking at some
15 of the outer Bay region.

16 The 18 habitat types range from everything out
17 in the Bay Area to agricultural lands that would be
18 potentially seasonally flooded.

19 We have some upland crop lands that would be
20 included in the overall program.

21 Because of the watershed areas we need to look
22 all of the way up into the Montane forest areas to deal
23 with some of the species that might be effected up there.

24 So this is just a quick overview of the various
25 habitat types, and for those of you who know a little bit

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1 more detail about some of the habitat types we've lumped
2 some of them together here to make it easier to put the
3 overall plan together from the standpoint of trying to make
4 it readable.

5 We also included two fish groups to pick up the
6 fish species since you don't necessarily divide those up
7 based upon a specific habitat type like you might deal with
8 the terrestrial species so we looked at the anadromous fish
9 species, Chinook, the steelhead, and the green sturgeon,
10 and then the estuarine species, the gobbe, the Delta smelt,
11 the long fin smelt, the splittail and the perch, and we
12 looked at how those habitats fit together and what would be
13 the overall conservation goals for those species and
14 habitats associated with those.

15 The process that we went through to select that
16 242 species was first looking at what are the current
17 species, what once have been proposed for listing by the
18 State and Federal Government, what are the other sensitive
19 species out there, and those included Department of Fish
20 and Game species are of special concern, some of the
21 California Native Plant Society list of species and other
22 potentially declining species that we knew occurred within
23 this overall plan area.

24 Out of that group of species we are looking at
25 what species are really adequately conserved or covered by

1 this overall program and this conservation is looked at as
2 achieving very specific species goals out there,
3 conservation goals, take avoidance measures. In certain
4 situations we can avoid impacting those species with the
5 project designs and also the implementation of some
6 specific mitigation measures associated with various
7 species.

8 So the key elements of the multispecies
9 conservation strategy are, one, what are the overall
10 conservation goals for species and habitats; what are the
11 conservation measures, how will those conservation goals be
12 implemented, but I think a third, very key piece there is
13 the monitoring. We need to know what's going on with these
14 species as we start implementing this plan so we can see
15 if, in fact, the actions we are taking are truly benefiting
16 the species or whether or not we need to look at things
17 slightly differently and make some changes or maybe we are
18 doing really well on one species and we need to look at
19 working some more on other species out there to help meet
20 those goals and that monitoring program fits right into the
21 whole concept of adaptive management.

22 We have a dynamic system out there and we are
23 going to need to have some management out there and change
24 those management directions over time to fit with the way
25 the species is responding and the way the habitat's

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1 responding out there.

2 In the developing the species conservation
3 goals we looked at a couple different ways to aggregate
4 species.

5 What we came up with is looking at which
6 species we would primarily recover through the actions
7 associated with the CalFed Program. Those are primarily
8 species that are almost entirely dependent upon the Delta.

9 The second piece or the smaller species is what
10 species should the CalFed Program provide for significant
11 benefits to in helping to recover those species but those
12 species occur more broadly than just within the CalFed
13 Program area.

14 And then the third grouping is maintain the
15 species. Those are species that are just sort of
16 peripherally in the area there may be some impacts but we
17 need to keep those species in the condition they are in now
18 and have mitigation measures and conservation goals
19 associated with those.

20 CHAIRMAN MADIGAN: I think skullcap --
21 MR. REMPEL: Yeah.
22 CHAIRMAN MADIGAN: Is a what?
23 MR. REMPEL: I think you are talking about
24 another of the species that's -- as far as I know, this is
25 an invertebrate, and, I don't know, Mike -- do we have a

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1 species expert out there that knows the mad dog skullcap?
 2 CHAIRMAN MADIGAN: Just somebody let me
 3 know someday that's all.
 4 MR. REMPEL: We'll get you a picture of
 5 one, Mike, and have it the next go around.
 6 CHAIRMAN MADIGAN: Great.
 7 MR. REMPEL: And these are some of the
 8 examples of the species that fit within these various
 9 categories.
 10 Remember, the total list is 242 so each of
 11 these categories has a fair number of species within it.
 12 I want to run through some examples of
 13 conservation goals that we're looking at so you get a
 14 little bit of an understanding of what this document will
 15 have in it.
 16 First, looking at some examples of our species
 17 and if you haven't -- don't figure it out, what we went
 18 through here is to try to give an example of a fish
 19 species, a terrestrial species and a plant species and look
 20 at that.
 21 With the Sacramento perch we are looking at
 22 establishing the goal would be establish multiple
 23 self-sustaining populations in the Central Valley, a fairly
 24 broad goal, but that's a species that occurs very broadly
 25 out there from the standpoint of both inside and outside

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1 the program area.
 2 The Swainson's hawk, a much more specific kind
 3 of goal but looking at targeting very specific numbers of
 4 breeding pairs that we want to get to within the Central
 5 Valley.
 6 And the Swainson's hawk are very much
 7 associated with riparian corridors and foraging areas
 8 primarily on ag lands in the adjacent -- to those riparian
 9 corridors.
 10 And then looking at one of the plant species,
 11 the Northern California black walnut, the goal here in the
 12 CalFed Program was once again something fairly specific,
 13 easily measurable, five to ten naturally regenerating black
 14 walnut stands.
 15 And that's an example of the small R species.
 16 When we start looking at the large R species
 17 those are things that we are really trying to get specific
 18 about because we are looking at how does the overall CalFed
 19 Program in essence recover those particular species?
 20 Once again, three different examples here of
 21 conservation goals for various species.
 22 As you can see from green sturgeon it becomes
 23 very specific looking at not only the number of fish but
 24 the size of those fish and the sex ratios that we are
 25 looking for in order to say this population or the green

1 sturgeon are in fact recovered. Some of this comes right
 2 out of recovery plans that have already been prepared.
 3 With the Lange's metalmark butterfly we're
 4 looking at just adopting in the plan the conservation goals
 5 that were in the recovery plan that were already approved
 6 by the Fish and Wildlife Service after public input.
 7 In looking at Mason's lilacopsis this is a
 8 slightly different kind of goal because it looks at both a
 9 habitat thing and the quality of the populations and the
 10 quality of habitat so it's a double tiered type of thing to
 11 achieve that particular goal. So within this overall
 12 conservation strategy all goals are not defined in exactly
 13 the same manner. They are tailored to the species and the
 14 habitats where these particular species occur.
 15 Yes, Mike?
 16 CHAIRMAN MADIGAN: You have really moved
 17 this thing along quickly in terms of getting things down to
 18 some real specifics. I guess I'm sitting here impressed
 19 that you have been able to move this rock this fast.
 20 Am I missing something here?
 21 MR. REMPEL: You're missing all the nights
 22 of sleep that staff forewent or were foregone trying to
 23 pull all of this together.
 24 Yes, we have moved this forward very quickly
 25 because we needed to make sure this conservation strategy

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1 went out concurrent with the Draft EIR/EIS for the CalFed
 2 Program.
 3 CHAIRMAN MADIGAN: Okay.
 4 MR. REMPEL: And that was clearly the goal
 5 and what we tried to do was get as many of the species
 6 experts together as we could and then also look at the ERP
 7 and what was in that already to help us pull everything
 8 together into a coherent program.
 9 The habitat goals come from various places.
 10 Partly the ERPP had some very specific habitat goals out
 11 there, were incorporated in those. The strategic plan
 12 built on that and did some refinement and the way we are
 13 going to achieve these various conservation goals, one are
 14 the ERPP actions that are already programmed.
 15 We have other State and Federal actions that
 16 will help achieve the overall goals.
 17 For some projects there may be some specific
 18 mitigation that is built into those projects that is
 19 targeted at helping achieve some of these goals, and then
 20 we are going to be looking at, you know, additional
 21 scientific review and other things to try to make sure the
 22 conservation goals really fit with the species and can be
 23 achieved out there as part of the overall strategy we are
 24 putting together.
 25 Now, in putting this overall conservation

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1 strategy together we had to look at what are the various
2 CalFed programs we need to be concerned about that will be
3 implemented under this conservation strategy, and these are
4 the broad pieces out there that are part of the CalFed
5 Program that we looked at, tried to look at what those
6 potential impacts might be on a programmatic basis, and,
7 once again, what we are putting together is a programmatic
8 conservation strategy.

9 There will be very specific things done based
10 upon each action that is that's taken under the CalFed
11 Program. So we needed to look at the levee system
12 integrity, the water quality program, the ecosystem
13 restoration program, the water use efficiency program, the
14 water transfers, the watershed programs in the upper
15 watersheds, storage and conveyance.

16 We evaluated each of these based upon the
17 habitat types and the species were effected and tried to at
18 least on a programmatic basis look at what are the effects
19 and what are the benefits for those various programs out
20 there.

21 We need to keep in mind that these programs
22 don't all result in impacts to the species. Some of these
23 programs result in -- a lot of these programs will result
24 in benefits to the species so we need to take that into
25 account on both sides, what were some impacts and what were

1 Act but we've also set this up so that we can use this
2 partially as a programmatic document to deal with 10A
3 permits should they be needed or Fish and Game Code Section
4 2081, incidental take permits.

5 Those may be things that are appropriate in
6 certain situations.

7 CHAIRMAN MADIGAN: So it's the hope that a
8 take permit would become essentially ministerial rather
9 than a judgment call because you have established in -- in
10 many of these instances you have established numbers and so
11 you can -- somebody can simply read a chart and say, yes,
12 this fits within it or, no, that doesn't fit within it?

13 MR. REMPEL: That is the intent so you
14 that you know going into the process -- I wouldn't call it
15 ministerial because that has another connotation under CEQA
16 and everything, but to say that you should know going into
17 the process what is going to be expected within parameters
18 out there as you go and develop your project.

19 And this just sort of tries to lay out part of
20 that because it will depend a little bit on what kind of
21 project and the amount of detail we have today in how
22 streamlined the process is.

23 It's all meant to be more streamlined to give
24 more assurances but certain things we know a lot more about
25 today than other things.

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1 the benefits.

2 The incidental take process for the overall
3 CalFed Program, what I've been just be talking about is the
4 MSCS is to be a programmatic document, a framework for
5 authorizing take in the future as we know more specifics
6 about individual projects out there.

7 Tiered to that will be these action specific
8 implementation plans which are based upon what people have
9 been talking about bundled actions. What are some actions
10 out there that are going forward for approval, South Delta,
11 what are the potentials out there, how does this all fit
12 together, and within the action specific implementation
13 plans we will deal with those individual bundles and
14 identify the impacts by species and habitats, the action
15 specific conservation measures, if any, associated with
16 that particular bundle and the methods or mechanisms for
17 authorizing take and certain bundles will have certain
18 species listed as part of the things they are going to
19 impact and where they need take it isn't going to be this
20 blanket all species for all actions out there because
21 obviously an individual bundled package doesn't effect all
22 species and all habitats and the mechanisms we will use for
23 authorizing that take will be primarily Section 7 under the
24 Federal Endangered Species Act and the Fish and Game Code
25 Section 2835 which is the take provisions under the M CCP

1 So what we have are -- what we've looked at is
2 categorizing things, the type one, type two, and type three
3 action out there, and this just gives a brief description
4 of how those things would be categorized in the future.

5 Obviously, moving from left to right it's
6 things we know more about to things we know less about.

7 And so if we know a lot about the particular
8 project going into the multiple species conservation
9 strategy we may not need any additional information due to
10 the action specific implementation program, that we can go
11 right to that and deal with it.

12 These other types of projects that are not
13 fully identified yet. We don't know all of the details of
14 the impacts and those projects we may have to do some
15 additional analysis on the impacts to various species
16 before we get within the overall parameter say exactly what
17 the overall impacts were and how that overall program might
18 need to be implemented to conserve the species.

19 On the far right, the type three, those are
20 things that are out there and are just not well coalesced
21 yet and so we are going to need a lot more detail but once
22 again it would tier back to the overall multispecies
23 conservation strategy so you knew the parameters within
24 which that program would be approved in the future.

25 CHAIRMAN MADIGAN: Byron.

1 MR. BUCK: Isn't there also another
2 dimension that we know a lot about some species, less about
3 some and not a lot about what it's going to take for
4 recovery for others so depending upon the project and how
5 it might relate to a specific species you might be in
6 different categories?

7 Because you are going to do an analysis and you
8 are going to know a lot of the CalFed things probably will
9 address recovery for a lot of things. Others it's only
10 going to assist and others you just don't know.

11 MR. REMPEL: That would be correct.

12 I mean, what we have is only a one dimensional
13 piece of paper here and really you're dealing with a
14 multi-dimension type situation.

15 There may be species we don't have enough
16 information on. There may be species out there we can deal
17 with on a habitat basis. We don't have to know exact
18 detail of exactly how many are there but you're correct.
19 There will be some variations within this overall process
20 but just trying to look at broad categories is the way
21 we've done it.

22 MR. BUCK: Going in you are going to look
23 at the effect of the CalFed Program, particularly the
24 ecorestoration program. I know for a lot of species you
25 are looking (inaudible).

1 (Inaudible) program moves forward so it's more
2 or less a consistency determination? When you've got a
3 project that comes along that may effect that you need to
4 see if it's within that envelope?

5 MR. REMPEL: That's correct.

6 Or you could have easily a restoration program
7 and just something simple like planting elderberry plants
8 so that we improve the elderberry beetle habitat.

9 You'll be able to say, hey, this is essentially
10 a no effect on species.

11 There is a little bit of paperwork to go
12 through but that program goes forward. There may be
13 situations where you need to take out a few elderberry
14 bushes as part of the -- a levee program where this program
15 would allow you to quickly identify what the
16 responsibilities were there to put some elderberry habitat
17 back in different locations.

18 It may be in a situation where we know we are
19 going to lose some small amount of riparian but we have a
20 pretty good idea. We haven't done detailed surveys about
21 what's in every tree out there but we know -- we can
22 characterize that riparian and so we are going to
23 re-establish riparian and not have to get into a super
24 level of detail in addressing where each species was in
25 that potential project area.

1 CHAIRMAN MADIGAN: Brenda.

2 MS. SOUTHWICK: Where in your analysis are
3 you addressing the situation where when you're seeking to
4 improve the habitat for a species you are trying to
5 conserve you inadvertently create better habitat for an
6 evasive species or a species that is a predator for the
7 species that you're trying to conserve? Where are you
8 dealing with that kind of issue?

9 MR. REMPEL: Those kind of situations
10 would -- and that's different than I thought the question
11 you were going to ask about the animals moving on to the
12 adjacent lands because I was going to get to that in a
13 minute but as each plan comes forward, particularly in the
14 restoration program -- those are the kind of things that
15 they are expected to address.

16 It has nothing specifically to deal with
17 endangered species specifically but it has to deal with
18 making good habitat out there. You don't want all of the
19 invasive species in there and those that are measures that
20 are in those specific project proposals on how they are
21 going to deal with introduced exotics if there is a
22 potential for problem associated with a riparian
23 restoration project. How do you deal with that? That's
24 part of the overall plan for that particular project.

25 MS. SOUTHWICK: Okay.

1 And, also, just -- I was going in that
2 direction so you could go ahead and answer that question,
3 too, because one of the concerns, obviously, when you are
4 creating habitat if you are also encouraging the
5 proliferation of a species that is a pest, say, to
6 agriculture, then how are you going to address that?

7 MR. REMPEL: Can I put up one more slide
8 and then we can just talk a little bit about assurances
9 where we are going to get to that particular piece?

10 This just tries to show from a bar chart
11 standpoint looking at those various types of actions out
12 there how the overall program is intended to shorten up the
13 amount of time that it takes to get to the point where
14 there is incidental takeoff and the program can go forward.

15 So, as I talked about before, type one actions
16 we know a lot more about, it will be much quicker in the
17 process.

18 Type three actions are going to be slower
19 because we don't have as much information on that one and
20 we are going to have to look at more detail.

21 And in looking at this what we have to do is
22 also put this in relationship to what would happen in the
23 real world out there if it was a non-CalFed action, much
24 longer permitting period we would anticipate if you weren't
25 part of the overall CalFed Program and covered by this

1 multi-species conservation strategy.

2 Actually, there were two slides, pardon me.

3 As I talked a little bit about before, a key
4 piece here is the monitoring program, two pieces of that
5 monitoring program, one is have they implemented or are the
6 measures being implemented that are supposed to be
7 implemented to conserve the species and were those efforts
8 effective at conserving the species?

9 That all feeds back into the whole concept of
10 adaptive management with monitoring basis upon species and
11 habitats. We measured against conservation goals. We have
12 scientific review and recommendations in there how we might
13 change things to make it work better and then acknowledging
14 that you can't start adaptive management on day one. It
15 will be phased in over time because a lot of the projects
16 will be phased in over time and we also need to get some
17 baseline information out there in certain situations.

18 Now we'll go to the assurances.

19 We are looking a letter a package of assurances
20 associated with the multi-species conservation strategy so
21 that people, landowners adjacent to where we put this
22 habitat, don't feel like they are being put upon because
23 there are more endangered species potentially on their
24 property so we are looking at how do we deal with
25 neighboring landowners where we do those types of

1 improvements and give incidental take coverage to the
2 adjacent landowners so that when the species moves on to
3 the adjacent land so long as they are normal operations out
4 there, they would have take coverage so if they are
5 accidentally taken during the farming operation it's no
6 harm, no fowl. It's permitted take.

7 Also, looking at the levee repair and
8 maintenance program how do we make sure that those levees
9 can be repaired and maintained once they come through the
10 process and so that we are not out there in a situation
11 where a new levee has been built and there appears to be a
12 problem with it, sorry, you've got to go back through a
13 longer permitting process to deal with it because
14 endangered species are in there now. Take care of it
15 upfront so you can work and deal with the endangered
16 species that might move on to those levees or where you've
17 done repair work.

18 Another significant issue we had to look at is
19 somewhat similar to the first one, neighboring landowners
20 but in a slightly different vein.

21 Use an example of Battle Creek, looking at
22 taking dams off of there, restoring it as habitat and all
23 of a sudden we have listed salmonic species up the creek
24 that weren't there before.

25 We realize that had we needed a package to deal

1 with those folks because they were already doing certain
2 things. Some of them were diverting water already. It's
3 not fair to say that now all of a sudden because we put the
4 endangered fish back in the creek that you have now a new
5 cost, that dealing with that needs to be worked into those
6 restoration programs and that incidental take for those
7 ongoing activities provided in association with that.

8 And that's similar to participants in a
9 screening diversion program where the way this particular
10 situation might work is there would be a priority list of
11 what diversions might need to be screened looking at ag
12 diversions primarily, not the large diversions because
13 we're already working on those, and saying that there is a
14 priority list out there.

15 As money becomes available those diversions are
16 screened, but so long as you sign up and say you'll
17 participate in that screening program the incidental take
18 that occurs between the time when you signed up or were
19 included in the program and you actually get your screen on
20 because there wasn't the money available, that's not --
21 that's going to be authorized incidental take, not a
22 violation of the State and Federal Endangered Species Act.
23 So that's another program to deal with within there.

24 Also, we are looking at assurances being phased
25 in over time as part of the program is implemented and then

1 also how do we get some kind of assurances that future
2 actions in the CalFed Program will be able to carry it out
3 and that will also been worked into the overall
4 multi-species conservation strategy so that if folks have
5 some reasonable assurances they'll be able to take that
6 next step out there and carry out another program action.

7 CHAIRMAN MADIGAN: Brenda.

8 MS. SOUTHWICK: Under assurances, and I
9 don't know if you already had it in mind, but I would like
10 to see it explicitly stated that there is a recognition
11 that timing is critical.

12 Certainly, in agricultural operations if
13 you're -- you realize that to be compatible sometimes
14 what's happening with the species there are certain things
15 that can't occur in the habitat during a certain period of
16 time but by the same token in order to carry on an
17 agricultural operation certain things have to be happen at
18 a certain time of the year.

19 I would like to see timing factored in as an
20 issue on assurances in terms of specifically sitting down
21 and working out those kind of concerns because they are not
22 going to go away. They are always going to be there.

23 MR. REMPEL: That's an excellent point and
24 we'll look at how we do that.

25 And it may be in the overall one or it may be

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1 in one of the actions specific because that's where it
 2 really -- you get to the very details of the types of
 3 things you are talking about there.
 4 MS. SOUTHWICK: Okay.
 5 MR. PYLE: Mike.
 6 CHAIRMAN MADIGAN: Stu.
 7 MR. PYLE: I have a general question.
 8 My concern is the relationship of some of the
 9 implementation actions that you show as their direct
 10 relationship to diversion of water and the water management
 11 strategy.
 12 My interest in this is supporting those
 13 environmental actions that are related to the diversions
 14 that got us into this situation.
 15 So then when we have on there black walnut
 16 trees and so forth, is that related to the diversion of
 17 water from the Delta and are we being assessed for items
 18 like that that are -- seem more or less remote?
 19 MR. REMPEL: That is part of the overall
 20 restoration of the ecosystem which the Delta water comes
 21 out of and part of that is having that healthy ecosystem
 22 out there and much of that, the funding for those kind of
 23 actions, comes out of Prop 204 rather than a direct
 24 relationship to a specific water diversion.
 25 MR. PYLE: I know.

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1 But I just think there is a tendency when we
 2 are doing good things for the environment, you can just
 3 keep going and how do you place some limitation on what is
 4 really directly related to the water diversion aspect that
 5 we are dealing with?
 6 How far afield can we get in financial support
 7 for everything that's a good idea?
 8 MR. REMPEL: And we tried to pull this
 9 down to the CalFed impact and solution area and actually
 10 there were 500 and some species that were, I believe,
 11 originally looked at and that's been reduced down to 240
 12 some now, trying to really focus on the Delta ecosystem and
 13 how do we make -- put that in -- back in a manner that
 14 provides for the habitat for a wide variety of species that
 15 is dependent upon that Delta ecosystem.
 16 And the black walnut was part of the overall
 17 ecosystem up here.
 18 MR. PYLE: You mentioned earlier that
 19 there are negatives and positives on both ways for the
 20 water diversion actions and the environmental actions and
 21 it seems to me that those ought to be pretty clear when
 22 people have to begin to discuss their contributions
 23 financially to this program and relate it to the benefits
 24 that they get out of the program.
 25 MR. REMPEL: And I hope those are clear in

1 both this document and the EIR/EIS that accompanies this
 2 document looking at the entire CalFed Program.
 3 CHAIRMAN MADIGAN: Okay. Thank you, Ron.
 4 Thank you very, very much.
 5 I am amazed at the progress which you have made
 6 in that short period of time.
 7 I am -- I will take comments from the audience
 8 on this subject and then I will take a general comment and
 9 then we will break for lunch.
 10 The first comment that I have a card on is from
 11 Nick DeCrocchi (phonetic), who has asked to speak on this
 12 issue and I would be happy to take other comments on this
 13 particular issue and then I have three -- two remaining
 14 cards on general comment. Yes, sir.
 15 NICK DECROCI: The last thing I wanted to
 16 do was go first but at least my subject follows on to that
 17 one pretty good.
 18 I'm Nick DeCrocchi and I represent Cal Trout. We
 19 are part of the Environmental Water Caucus.
 20 Cal Trout's interests are mainly focused but
 21 not exclusively focused on the ecosystem restoration
 22 program and the recovery actions that will be planned for
 23 steelhead in the Central Valley.
 24 Usually when I take the microphone at these
 25 forums you've heard criticism or complaints about some part

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1 of CalFed from me.
 2 Today my comments will be a little different.
 3 We are encouraged by what we see as the
 4 attention that is evidently being paid to the steelhead
 5 recovery actions as evidenced by the presence of
 6 Dennis McKuhn (phonetic) as a temporary part of the CalFed
 7 team.
 8 This was something that we requested of the
 9 Fish and Game Department.
 10 Dennis is one of the pre-eminent steelhead
 11 biologists in the State and the author of California's
 12 steelhead restoration and management plan.
 13 As a result of that we are hopeful that the
 14 next update of the plan will contain more specifics in its
 15 steelhead recovery actions, especially related to summer
 16 steelhead flows -- summer steelhead temperatures -- sorry
 17 -- and steelhead recovery goals.
 18 While we recognize that there is a paucity of
 19 good historical baseline steelhead numbers we look forward
 20 to an ecosystem restoration program with improved actions
 21 and measurable biological performance goals for steelhead
 22 recovery in the Central Valley.
 23 Thank you for the opportunity to comment on
 24 that one.
 25 CHAIRMAN MADIGAN: Thank you, sir.

1 All right. Sure, Gary.
 2 GARY BOBKER: Yeah, I want to comment on
 3 the specific -- I just wanted to comment on the issue
 4 that -- I think the work that's been done on the
 5 conservation strategy is extremely important and I want to
 6 point out, though, that there is a couple of moving parts
 7 here.
 8 There is a conservation strategy. There is
 9 this ecosystem restoration program plan and then there is
 10 various elements to address performance assessment or
 11 implementation like the C-mark comprehensive monitoring
 12 assessment and research program and there is really need I
 13 think to start to integrate more than has been done here to
 14 this point and I offer that not in criticism of the
 15 conservation strategy.
 16 I think that that integration, if you look at
 17 the linkages between the conservation strategy and the ERP,
 18 it's probably going to point out some areas in the ERP
 19 where there may be gaps in what the ERP has identified as
 20 necessary components -- actions to address endangered
 21 species issues.
 22 Conversely looking at those linkages may also
 23 identify a number of assurance issues that aren't addressed
 24 simply by the conservation strategy that focuses on listed
 25 or candidate species issues.

1 There is a need to address assurances for a
 2 broader ecosystem components habitat, other ecological
 3 stressor issues, which I'm not sure the conservation
 4 strategy adequately deals with.
 5 So I guess I would like to hear maybe CalFed's
 6 staff's thoughts on how to best accomplish that integration
 7 between these various pieces of the ecosystem restoration
 8 strategy.
 9 CHAIRMAN MADIGAN: Or not.
 10 Do you want to get back to Gary on that one?
 11 EXECUTIVE DIRECTOR SNOW: Well, sure.
 12 I mean, I don't think the question that he's
 13 asking is a simple 30 second response --
 14 GARY BOBKER: And I wasn't asking for a
 15 response right now. I was --
 16 EXECUTIVE DIRECTOR SNOW: Okay. Let me
 17 give you this sand bite. We've got it well on hand here.
 18 CHAIRMAN MADIGAN: Fair enough. Okay,
 19 Thanks, Ron.
 20 We have two cards here for general comment
 21 before we break for lunch.
 22 Patrick Maloney, yes, sir.
 23 PATRICK MALONEY: Yes, I'm Patrick
 24 Maloney. I represent about 75 thousand acres in the
 25 Salinas Valley and we take the position we are getting no

1 benefits from any Federal, State or County project.
 2 We have no need to have CalFed in Salinas. We
 3 think CalFed should probably go to Watsonville.
 4 The UAW is actively involved in Watsonville
 5 water politics and it's a good place for you to work. You
 6 can take care of all of your involvement projects and
 7 everything else in Watsonville. Just have your meeting in
 8 Watsonville instead of Salinas.
 9 Secondly, we had a very interesting experience
 10 in the inclusion issue back in the business roundtable
 11 work.
 12 We had Commissioner Kathy Neal and I think
 13 Senator Gwen Moore work to bring people into the inclusion
 14 process. They spent about six months getting all kinds of
 15 people of color involved on water issues. They wrote a
 16 report, and Mr., I think it was, Fred Cannon who was afraid
 17 to put the report in all of the business roundtable
 18 publications.
 19 You are not going to accomplish anything in
 20 CalFed until you have a much broader base. The base has to
 21 include all different types, people of color. It has to
 22 include Hispanics. It has to include blacks. It has to
 23 include Asians, and then once you get those people into
 24 these meetings all sorts of things come into play. Why
 25 should the people in California pay farmers for water that

1 the State created?
 2 Does the water of the people of
 3 California really belong to the indigenous people.
 4 All of these things came out in the business we
 5 had at the roundtable and Fred was afraid that if we really
 6 put them out in the public it wouldn't do any good.
 7 All of those reports are sitting out there and
 8 I would recommend that you talk to either Commissioner Neal
 9 or Senator Gwen Moore and she'll tell you what the people
 10 of color really thought about the water in California.
 11 Thank you.
 12 CHAIRMAN MADIGAN: Thank you, sir.
 13 Ed Petry.
 14 ED PETRY: Good morning, Mr. Chairman and
 15 members of the Council.
 16 I'm glad to see a good attendance here today
 17 and I appreciate that whole heartedly.
 18 I've heard comments made by Lester this morning
 19 about redirected impacts.
 20 Currently -- well, in 1997 and 1998 flood flows
 21 we had a problematic area in our area with some 1700 cubic
 22 second foot flows. They were flash flood flows that came
 23 out of the creek in Pinoche Hills.
 24 During that period of time the bulk of the
 25 contaminants and the sedimentation in the flood flows were

1 directed in a northeast direction.

2 Current facilities that are in stream up in the

3 Pinoche Creek area between the California aqueduct and the

4 conference, these velocities of flows broke out before.

5 The current happenings that are current here

6 recently they are going to direct those flows in a more of

7 an easterly direction.

8 What happens in that event that will protect

9 the grasslands area and keep the contaminants out of the

10 grasslands area and they shouldn't have any problems with

11 meeting the problems with pollutants in the lower

12 San Joaquin River, but at the same time we've got a

13 redirected impact to where we are going to have those flood

14 flows and sedimentation in the Mendota Pool and Fresno

15 Slough area. That's all interconnected with the

16 San Joaquin River.

17 It appears to me that things of this nature

18 create water laws rather than deter them, and these

19 redirected impacts that are occurring in our area effect

20 water districts north of us. It affects the water district

21 to the west and it affects the water districts south of us.

22 I hear a lot of discussions about a lot of

23 discussions that are talked about in different areas.

24 I would like to be talking about things on a

25 general or a regional basis more than, you know, helping

1 areas just in one location.

2 We need a broader view of what we can do on a

3 statewide basis just rather than on our local basis.

4 Not only have they reconstructed the levees for

5 four miles of the creek on the upper layers of the Pinoche

6 Silver Creek that direct these flows to the lower

7 conference in the direction of where I live, they've also

8 widened the levee along Belmont Avenue to take substantial

9 additional flows in the direction of the City of Mendota,

10 Fresno Slough, Mendota Pool area.

11 Back some 25 years ago there was a court order

12 and a court injunction for them to keep the levees equal to

13 the crown of the road to prevent having these flood flows

14 going into the City of Mendota like they did in those past

15 years.

16 But because of manmade infrastructure presently

17 all the way from the California aqueduct to the Mendota

18 Pool to the Fresno Slough area there is going to be a

19 drastic effect on the flood flows coming that are going to

20 bring contaminants that won't be going into the grasslands

21 area that will be applied to the Mendota Pool area.

22 Then you get the flood flows in the north fork

23 of the King River that flush these flows in the lower San

24 Joaquin River, cause congestion to where the comprehensive

25 study that the Corps of Engineers now is going to be

1 programmatic they are going to have to keep setting their

2 levees back.

3 So the CalFed process in my eyes is a slow

4 process as to where we are going to be benefiting things of

5 these natures .

6 If we are going to be looking at 15 to 20 years

7 with surface water storage that could be accomplished on a

8 statewide benefit that would have multi-use multi benefit;

9 flood control, sedimentation control, water quality

10 control, contaminant control, water to dilute the San Luis

11 drain waters with, waters for fish in the San Joaquin River

12 all the way to the Sacramento Delta; additional supplies of

13 water for Southern California.

14 If we had water supply in the Central Valley

15 that would leave more water in the California aqueduct to

16 Southern California, we could leave the 800,000 acre foot

17 in the Sacramento River for the fish, bromides, sea

18 intrusion, things of that in order.

19 We have to think on a reasonable basis in order

20 to accomplish what the CalFed's goals are. We can't do it

21 by just taking one location and doing it. We have to go on

22 a statewide basis to accomplish these goals.

23 I want to thank you for your time and I have to

24 compliment Lester in finding a good place to hide out

25 because I had a hell of a time finding this place today.

1 CHAIRMAN MADIGAN: Thank you, Mr. Petry,

2 as always.

3 All right. The hour of twelve o'clock having

4 arrived and passed ever so slightly we are going to be

5 recess until one o'clock.

6 Remember at one o'clock we are meeting with the

7 policy group members. We are going to try to incorporate

8 their chairs around the table here so that we don't have a

9 separate table and any further encouragement of a we versus

10 them attitude.

11 Lunch for the members of the BDAC will be in

12 the back (indicating).

13 That's it. See you at one.

14 Lester? No. All right.

15

16 (Whereupon the noon recess was taken at

17 12:23 p.m., after which the following

18 proceedings were had at 1:08 p.m.):

19

20 CHAIRMAN MADIGAN: Well, all right.

21 That's not too shamefully past one o'clock.

22 We are going to reconvene as members of the

23 Bay-Delta Advisory Council, but it is obvious to everyone

24 that we also have several members of the policy group with

25 us, and while there will be another couple of members of

1 the policy group that will arrive here in about a half an
 2 hour, particularly, Secretary Mary Nichols and department
 3 Director Hannigan, it would be useful, I think, to go ahead
 4 and get this started and maybe the best thing that we could
 5 do by way of starting this would be to go around the table
 6 and introduce ourselves since we probably all will
 7 recognize the names but not necessarily all of the faces.
 8 Maybe, Tom, I could start with you.
 9 MR. GRAFF: Sure.
 10 Tom Graff, Environmental Defense Fund.
 11 PHIL METZGER: Phil Metzger, USCPA Office
 12 of Water in Washington.
 13 STEVE STOCKTON: Steve Stockton. I'm
 14 representing the South Pacific Division Commander of the
 15 U.S. Army Corps of Engineers.
 16 TOM DECKER: Tom Decker representing
 17 California State Chamber of Commerce.
 18 MR. RAAB: Bob Raab, Save San Francisco
 19 Bay Association.
 20 MR. BRANSFORD: Don Bransford,
 21 Glenn-Colusa Irrigation District.
 22 MR. BELZA: Tib Belza, Northern California
 23 Water Association.
 24 MR. PETTIT: Walt Pettit, State Water.
 25 MR. BUCK: California Urban Water

1 Agencies.
 2 MR. FLORES: J.R. Flores representing
 3 California Natural Resource Conservation Service.
 4 MR. RITCHIE: Steve Ritchie with CalFed.
 5 MS. McPEAK: sunne McPeak, Bay Area
 6 Council.
 7 CHAIRMAN MADIGAN: Mike Madigan, California
 8 Water Commission.
 9 EUGENIA LAYCHECK: Eugenia Laycheck,
 10 CalFed.
 11 EXECUTIVE DIRECTOR SNOW: Lester Snow,
 12 CalFed.
 13 DAVID COTTINGHAM: David Cottingham,
 14 Department of Interior.
 15 MR. WRIGHT: Patrick Wright, Resources
 16 Agency.
 17 MS. KAMEI: Rosemary Kamei, Santa Clara
 18 Valley Water District.
 19 MR. PYLE: Stu Pyle, Kern County Water
 20 Agency.
 21 MR. FRICK: Howard Frick, Arvin Edison
 22 Water Supply District and Friant Water Users Authority.
 23 STEVE ZAPOTICZNY: Steve Zapoticzny of
 24 Southern California Water Committee.
 25 MR. BURTS: Eze Burts, Los Angeles Area

1 Chamber of Commerce.
 2 MS. BORGONOVO: Roberta Borgonovo, League
 3 of Women Voters of California.
 4 MR. HILDEBRAND: Alex Hildebrand, South
 5 Delta Water Agency.
 6 MR. ANDREUCETTI: Gene Andreucetti,
 7 California Waterfowl Association
 8 ROGER THOMAS: Roger Thomas, Golden Gate
 9 Fisherman's Association.
 10 CHAIRMAN MADIGAN: Terrific.
 11 Thank all of you from the policy group who are
 12 joining us this afternoon.
 13 There are a couple of items on the Agenda that
 14 it seemed to us, presumably to all of you, that if we
 15 discussed them together, that that would lead to maybe a
 16 productive conclusion. So we are grateful for your
 17 attendance.
 18 The first -- and, by the way, when I started
 19 this off this morning, I said that it was my hope that we
 20 would have what they usually refer to in the State
 21 Department as frank and open discussions about things.
 22 That's certainly the mood of a number of the
 23 members of BDAC and I trust that it is the mood of those of
 24 you from the policy group as well.
 25 The first item on the Agenda this afternoon is

1 a discussion of the major policy issues related to
 2 governance.
 3 And, Lester, do you want to introduce this or
 4 do you want to turn to Kate and of her --
 5 EXECUTIVE DIRECTOR SNOW: Well, I want to
 6 make a couple of comments on this and then turn it over to
 7 Kate.
 8 Governance has been one of those elusive issues
 9 for CalFed for a couple of years. I think there
 10 has been a general recognition particularly in BDAC
 11 discussions that as we try to do things quite different in
 12 terms of resource management, a large ecosystem restoration
 13 program and a comprehensive approach there has also been
 14 recognition that maybe there needs to be different
 15 governance structures to accomplish that, and I think in
 16 general you get people to agree conceptually that, yeah, if
 17 that's true, that's true but when you start moving to the
 18 detail it gets a lot more complicated, a lot more turf
 19 issues in terms of winning and losing and I know from my
 20 interaction that there are a lot of stakeholders that feel
 21 dissatisfied with our incorporating stakeholder input and
 22 that only gets worse as you start moving to implementation.
 23 And so you'll see from Kate's presentation that
 24 we look at it from kind of a long-term perspective what
 25 needs to be done but we are also faced with a very real

1 issue every beginning implementation in potentially 13 or
2 14 months and so we started talking about interim
3 implementation and the structures that are necessary.

4 And the only way that we can make progress is
5 as Mike put it, having frank and candid exchanges about
6 what the expectations are and what works and what does than
7 the work.

8 So, hopefully, we can make some progress today
9 so that we are ready to implement when we issue the Record
10 Of Decision.

11 Kate.

12 KATE HANSEL: Thank you.

13 What I'm going to cover today is I'm going to
14 try to go over the schedule, what kind of information will
15 be in the June draft release and where we will be at on
16 governance and proposal at the time of the ROD. I want to
17 go over where we are on functions, governance functions
18 because everybody as I've moved into this field it's
19 certainly a form follow function and it's a hard one to
20 stick with but we are going to try to take it from the
21 functions standpoint.

22 And like Lester said we are going to try to
23 describe the interim governance proposal that we have a
24 little bit described in your packet and we'll go into it in
25 a little more detail today.

1 Then we'll wrap up my presentation, pass it
2 back to you and I understand it will be a frank discussion,
3 possibly break out, possibly not. So I'll get out of the
4 way at that point and duck.

5 I'm going to start by just going over a little
6 bit of the products and schedule.

7 In the June draft we will go over a detailed
8 discussion of the interrupt structure. We'll make a
9 decision on that at the June draft so that's one thing we
10 definite want to get input on today.

11 We will have options for long-term governance.
12 We will not have a recommendation on long-term governance
13 at that time and functions we definitely want to have by in
14 from all of the players and agencies on what the basics
15 functions are for governance when we move into
16 implementation.

17 By the time of the ROD we want to have a
18 long-term governance decision. That's a decision not ready
19 for implementation because once you make the decision if
20 legislation is involved that could take one to three years,
21 maybe a little less but probably possibly more but knowing
22 that that's what really made us turn to we'd better make
23 sure we have our act together on interim because it will
24 take several years to implement a new entity for long-term
25 governance.

1 Functions. I've organized functions here into
2 three levels and even at the second bullet you'll see that
3 it's actually two different types of functions.

4 There is an attachment A that was included in
5 the memo on governance that was in the packet and it goes
6 into a little bit more of the detail on this, but what I
7 would just point out for the top bullet is that what we are
8 saying is that for oversight we really need a function of
9 some entity that would in a sense carry on a lot of what
10 the policy group has done in the planning stage but moving
11 on to implementation through all of the development of how
12 we are going to be making decisions on CalFed. We know
13 it's not a decision that we make at one point and then we
14 just implement it. It's a lot of stage decision-making,
15 linked decisions balancing and we need an entity that can
16 have that kind of oversight function and carry on.

17 So there is a balancing there is assessing
18 progress with adaptive management, a lot of things that an
19 entity that would take on the oversight function would be
20 responsible for, the coordination of the program among all
21 of the different elements needs to be housed at this level
22 as well as at each but definitely at the oversight level so
23 I would really think of it in terms of the coordination as
24 well as this program -- overall program direction that
25 includes assessment, balancing and linkages.

1 The next one, program management and
2 coordination, it falls into when you take different parts
3 of the CalFed Program they are all very linked but if we
4 have an ecosystem restoration program, someone needs to be
5 responsible for meeting the objectives of the ERP. There
6 has been a lot of discussion about a ERP entity and whether
7 we end up with a new entity or not, wherever that is
8 housed, some entity needs to be responsible for kind of
9 really pushing on those objectives.

10 We have levee integrity objectives, water
11 quality objectives, so a lead on meeting those objectives
12 and then running the program. There is going to be setting
13 priorities, selecting projects, coordinating with
14 stakeholders and agencies. So just kind of more at a
15 smaller scale on a program by program.

16 Then the coordination function will continue.
17 You need to coordinate with all of the other agencies that
18 are not actually -- that are CalFed agencies or not
19 actually in the CalFed family but involved in
20 implementation on levees, involved in implementation on
21 watershed.

22 We need to do a lot of coordination at this
23 function level.

24 And then what was getting very confused for
25 awhile is the direct implementation in many cases will be

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1 housed even in a separate entity possibly. There's
2 probably over 20 agencies that have a role in implementing
3 pieces of what we talk about on the CalFed Program. So
4 direct implementation could be an agency that receives a
5 grant or it could be an agency that's actually running the
6 levee's avengence program.

7 There would probably also be involved in the
8 management but direct implementation is a function that
9 could be housed closely with management or separate and
10 that's why I created separate bullets because when you put
11 the structure on top of the function you can see these can
12 be moved these functions in different ways. You can house
13 them altogether or you can separate them in different
14 entities and so distinguishing was important.

15 I wanted to move now having gone into a little
16 background on functions how we would see those functions
17 falling in the interim governance structure.

18 So we still of the basic structure that you
19 see. We propose the policy group to continue in the
20 interim -- let me say on the interim the basic foundation
21 of that is that there would be no new laws and no new
22 authorities.

23 We don't want to take the time and go out to
24 the legislature and try to get changes. We have to live
25 with what we have in the interim while we can focus our

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1 attention on the long-term decision which may involve
2 legislation.

3 So living with existing authorities we propose
4 to keep the policy group as the main oversight entity for
5 oversight and coordination.

6 The CalFed Program would have both roles, a of
7 program coordination and program management and down at the
8 implementation Agency level many of the agencies where the
9 authorities primarily reside are with the existing
10 agencies.

11 CalFed Program has no authority of its own to
12 implement any of the programs. They still have to flow
13 through a existing Agency so direct implementation and
14 program management would be housed within individual
15 agencies Department of Water Resources, resources agencies
16 for Prop 204. So what we've done is we've added on to
17 this. We propose continuing an Advisory Council, BDAC or
18 -- that's one of the discussions today whether that would
19 be a different council, and continue -- and that's one of
20 the discussions, also, work groups and teams and how --
21 what's the best way to advise during implementation on the
22 interim basis, workgroups, agency work teams, technical
23 teams.

24 We still have in the interim the Secretary of
25 Interior and Governor at the top in terms of the final

1 program decisions that are coming out of the CalFed Program
2 but what you see over here is the box on the side, related
3 funding and authorities, is really licked to this bottom
4 box down here.

5 So what we are saying in implementation is
6 that we are going to start needing to work really closely
7 with all of the agencies that have the authority to
8 implement the pieces of the CalFed Program. In some cases
9 new money will come into the program and it will say in
10 that new legislation, new funding authority, coordinate
11 with CalFed and in that case possibly CalFed Program takes
12 more of a lead for managing those new funds, but if no new
13 funds come in or if -- even if they do, there is a lot of
14 existing programs that are going to continue that we need
15 to coordinate with, and that's where the CalFed Program
16 would serve the coordination role.

17 I use the levees as an example a lot because
18 that's an ongoing program at the Department of Water
19 Resources and we would as an example serve at the CalFed
20 Program a strong coordination role with the DWR and Delta
21 levees program. They would still do the direct
22 implementation and program management but it needs to be
23 coordinated with the CalFed Program to the extent the
24 objectives overlap.

25 Otherwise, we are back to where we started

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1 before we started before CalFed even began with a lot of
2 agencies running the program but we've created CalFed to
3 try to see how we could link those programs together and
4 create some common objectives. So that's the strong
5 coordination role that has to happen at the CalFed Program.

6 Any decisions that happen -- and review of
7 programs that are outside in the DWR budget or in a
8 watershed program, we'd review them at the policy group
9 level but the final funding authority still rests with that
10 Agency. There is no change in that authority.

11 To achieve this, to make sure everybody is very
12 clear on who's got what role in the interim, we propose to
13 -- three agreements that need to be put in place.

14 We are talking we need to redo the Framework
15 Agreement, put a new Framework Agreement in for policy
16 group.

17 That Framework Agreement is not consistent with
18 an implementation role. There will be new tasks so we need
19 a new Framework Agreement.

20 We have propose each of these agreements by the
21 time of the ROD so that we are ready to go at the time of
22 the ROD, everybody is clear on their role and their
23 functions.

24 The same for an Advisory Council, whether it's
25 new or amend the existing BDAC charter.

1 And for the CalFed Program no one at the time
2 of the planning saw the program in an implementation role
3 and we need to be clear with an administrative MOU with the
4 CalFed agencies how we are funded and how we are budgeted.

5 So just to go a little bit more into that which
6 is part of what you will be discussing later is that the
7 policy group, a new Framework Agreement, we want to really
8 take this opportunity to make sure we have the right Agency
9 membership for implementation, we have identified the
10 functions that need to happen and everybody is clear on
11 what those functions are for implementation, of all these
12 pieces laid out in that new Framework Agreement, how often
13 they meet, how often they meet in these joint meetings like
14 we are having today and the procedures, more structured
15 decision-making procedures as you move into implementation,
16 having all of that clarified in the agreement.

17 For the Advisory Council, BDAC, we're talking
18 about a new tasks, in some cases there is some continuation
19 but the new taste, really get into ones here as listed, you
20 are going to be advising on funding priorities. We've done
21 that already on the ecosystem but that's the entire program
22 we'll be moving into. Questions on the work groups needs
23 to be resolved and included in the charter, frequency of
24 meetings and how the you'll be involved in the annual
25 assessment and how an advisory council will be involved in

1 an annual assessment of how CalFed is performing meeting
2 its objective and, last, just the MOU for the CalFed entity
3 its, how long it will continue, what its functions and
4 responsibilities will be, and this is really important.
5 People are not clear who is coordinating with who, who is
6 lead and all of that needs to be clarified. I wanted to
7 just summarize with the two main points that I'm hearing
8 from our BDAC workgroup. We have a governance workgroup
9 that's met twice since January and each time, especially
10 this last meeting, they talked about the interim proposal
11 that you'll be talking about today and the feedback we are
12 getting is definite concern for the timing over the
13 long-term governance decision, why is it taking so long,
14 why are we spending time in the interim and delaying
15 long-term governance so that's an issue to be discussed
16 today.

17 The other one is what is the role of
18 stakeholder and public involvement in the policy group
19 during the interim, concerns over how the policy group's
20 been structured and meeting and those questions have been
21 laid out in your packet and I just want to put those up
22 here to pass the baton back to the Chair.

23 These were the questions that were in your
24 memo. We added the top question to reflect one of the BDAC
25 workgroup concerns, so basically is there a target date

1 that BDAC wants to set for a recommendation on long-term
2 governance.

3 And the last four revolve around what role the
4 stakeholder and public participation should have in the
5 interim with policy group, frequency of meetings, what it's
6 role is, trying to get as much input from you today as we
7 can so we can include that in the interim proposal.

8 That's the end of my presentation. I'll pass
9 it back to the Chair and he can take it from there.

10 CHAIRMAN MADIGAN: Okay. Thanks, Kate.

11 Are there -- let me just ask in the assembled
12 group here if there are specific questions in terms of the
13 presentation that Kate made because I think what a number
14 of us would really like to do is get directly involved in
15 the conversation about some of the specifics here.

16 Just for starters are there questions of Kate?
17 Byron.

18 MR. BUCK: Can you elaborate on the public
19 work group? I didn't see that back on your chart.

20 KATE HANSEL: Okay. The hold chart?

21 This -- work group's underneath the Advisory
22 Council.

23 MR. BUCK: Okay.

24 KATE HANSEL: Just an open question of
25 what work groups do we need when we move into

1 implementation, should we rethink the ones we have, we
2 probably don't need a governance work group if we've
3 established the decision of long-term governance but kind
4 of how do we organize that.

5 MR. BUCKS: (Inaudible)

6 KATE HANSEL: Groups, yes. Oh, yes, there
7 is a typo in the question, one work group. Who wants to
8 join that one?

9 CHAIRMAN MADIGAN: Sunne.

10 MS. MCPKAK: Thank you, Mr. Chairman.

11 What is envisioned as the interim?

12 Generally the timetable for interim versus
13 long-term I understand conceptually the division and
14 perhaps why you are making that recommendation or taking
15 that approach, what's the time envisioned?

16 KATE HANSEL: It's not determined. It's
17 basically until the long-term is ready to be implemented,
18 to pass it on.

19 We hope to have the decision -- the plan is to
20 have the final decision by the ROD, whatever -- if that
21 doesn't involve a lot of new legislation, then you probably
22 could do the interim -- you could go long-term fairly soon.
23 Fit involves legislation and going out to Congress, then
24 it's a question mark but we are hoping one to three years
25 max for the interim.

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1 MS. MCPEAK: Three years maximum? Is that
 2 what I heard you say?
 3 KATE HANSEL: Uh-huh (yes).
 4 CHAIRMAN MADIGAN: Sounds like a long
 5 time.
 6 Well, I I'm going to start off with a question
 7 that nags at me the most and I'm not even sure who I should
 8 be asking this question of, Lester, so I will ask it of you
 9 but feel free to indicate that there are others who really
 10 ought to be answering the question.
 11 And I'm going to preface my question by saying
 12 what seems to me to be a reasonable assumption under
 13 pinning my question, and, that is, that none of the
 14 individual agencies represented on the policy group as a
 15 matter of their own or your own self interest has any
 16 interest in giving up any particular piece of the
 17 implementation program as that implementation program is
 18 developed, that you would rather do it yourself, and I
 19 could understand why that's probably true and I can
 20 understand the momentum behind that not changing, but
 21 having said that it, therefore, seems to me to be
 22 imperative that, to use Lester's phrase, the light of day
 23 be showing as brightly as possible on that process and that
 24 to me argues for the strongest possible stakeholder
 25 participation and advisory role and citizen oversight

1 to maximize the light of day discussion of these issues as
 2 existing authorities are used to implement the program and
 3 to try to maximize the stakeholder involvement at the
 4 appropriate points in these decisions.
 5 And I don't think there is anyone around this
 6 table that wouldn't agree that we have not hit that maximum
 7 or optimal integration at this point and that we probably
 8 need to improve it as we move to implementation.
 9 So I think that the interim approach is maximum
 10 light of day involvement but using existing authorities
 11 while we hold out the potential for the long-term and
 12 structure things differently.
 13 David, do you want to jump in?
 14 DAVID COTTINGHAM: Yeah, let me just add a
 15 little bit to that. I think that all of the agencies are
 16 starting to realize the benefits of having a CalFed through
 17 Ops groups and no names groups and things like that.
 18 I won't tell any of you that I don't attend
 19 many of the Ops groups meetings or no name groups or
 20 DNCT's, I don't know how to say that, the DEFT No Name
 21 Coordination Team, group meeting. I don't attend many of
 22 them. I get on conference calls from time to time, but I
 23 think that all of the Federal and State agencies have come
 24 to realize that if we didn't have a CalFed coordinating, we
 25 would have to have something else. We'd have to reinvent

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1 process that can be developed in all this, and if we were
 2 to move in that direction, and that's just me for the
 3 moment, but I suspect it's others along the way, if we were
 4 to move in that direction in terms of our advice and our
 5 recommendations, how would that be met by the -- how would
 6 that recommendation be met by the policy group?
 7 EXECUTIVE DIRECTOR SNOW: Let me add and
 8 then I think I really need to turn to some of the policy
 9 group members.
 10 I know David's given this thought and others at
 11 the table, but I think the kind of the way that you're
 12 describing it in essence is the way we've broken out
 13 interim and long-term and in the long-term deliberations we
 14 have not given up the potential that you really would do
 15 some fundamental institution restructuring where both BDAC
 16 and the policy group has had presentations from
 17 stakeholders -- Cynthia, actually, I just saw Cynthia stand
 18 up in the back, and Cliff Schultz, about a new institution,
 19 whether it's a public corporation that's formed by Congress
 20 and the State legislature, some other mechanism where you
 21 actually are cutting across some of those different
 22 institutional lines and its different people making
 23 decisions on in that case the ecosystem restoration.
 24 In the interim, though, the model that we've
 25 defined that is as the Chair has just described is designed

1 something like that, and we are going to have to have
 2 something like that to implement this program.
 3 There's -- I think all of us or most of us on
 4 the Federal side agree, knowledge and see the benefit of
 5 that.
 6 But we are also trying to implement programs
 7 based on existing authorities without going back to
 8 Congress with a package that says "Here is our eight to ten
 9 billion dollar project program -- program/project and we at
 10 least have discussed this with various members on various
 11 committees and things at the hill and have decided -- not
 12 everybody agrees with this. Some of them really want to go
 13 back and try to authorize the whole thing -- but for the
 14 time being in the interim we are going to be much better
 15 off relying on those existing authorities so --
 16 CHAIRMAN MADIGAN: I guess I'm not trouble
 17 by the idea of that initial reliance on existing
 18 authorities I can understand it in a 30 year program taking
 19 a couple of years to figure out some of the institutional
 20 arrangements doesn't trouble me. That's probably a
 21 reasonable thing to do. I guess it's the direction that I
 22 -- that at least it seems to me that we need to be heading
 23 and I haven't heard any detailed conversations. I've just
 24 heard it referred to, the notion of a public corporation so
 25 I'm not expert on that or what the pluses or minuses are.

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1 My guess is that legislative bodies and
2 executive bodies are going to want to keep fairly close
3 tabs on an institution like this that has a great deal of
4 money to spend and has important things to do but within
5 that and within all of those practical political
6 constraints this is the kind of program it seems to me that
7 can get further and further from public review and
8 discussion and participation fairly quickly.

9 I mean, it's the kind of thing that can retreat
10 within sort of that monolithic bureaucracy sort of notion,
11 and not because of anybody's particular intent.

12 Therefore, the long-term structure needs to
13 drive this aggressively in the direction of open and public
14 -- I mean, I suppose that's inarguable.

15 Of course, that's the public process, that's
16 the way you do it, but there are lots of ways to do that
17 and it will be hard enough for this to be open and public,
18 anyway, and that we ought to be working toward those
19 long-term structures that at least maximize the intent if
20 that's a reasonable way to put it.

21 DAVID COTTINGHAM: Certainly, I'm not
22 going to argue that with you. I think that is a good idea.

23 I'll say when Lester and many of you come back
24 to Washington from time to time and go meet with
25 representatives on both the appropriation and the

1 the public is for Congress to do the oversight, not -- and
2 that is, of course, many thousands of miles away and it
3 creates a whole new series of challenges.

4 I mean, clearly we have to report, the Federal
5 agencies have to report to Congress and we need to do that
6 and we need to convince them that we are doing a good job.

7 I think there is a whole different level of
8 openness that we've got to make sure we take care of all of
9 them, of those various interests and constituents.

10 So we'll be working on that one.

11 CHAIRMAN MADIGAN: Thank you.
12 Roberta.

13 MS. BORGONOVO: I wanted to go back to the
14 question that Kate Hansel put up there because it's not the
15 first question that's on governance and it goes back to the
16 question of the worry of the stakeholders that you won't
17 have the kind of integrated oversight over the ecosystem
18 restoration program that's needed if you concentrate on the
19 interim.

20 So I would very much like us to spend some time
21 on discussing that.

22 Both Hap and I put together the ecosystem work
23 group and the governance work group last fall and we
24 brought the results of that to this group and it was very
25 clear to us that all of the policy group people and

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1 authorizing committees, and we really appreciate that,
2 we've got a hearing coming up next week, actually, a week
3 from tomorrow, I guess, in the House Resources Committee,
4 where if you looked at the types of questions they are
5 asking us, it's -- they have -- some of the staffers and
6 even some of the representatives even from California, you
7 would think that we had never told them a single thing
8 about CalFed.

9 Lester comes back at least every six months and
10 does comprehensive briefings. We've had several hearings.
11 I feel like we are providing them much information about
12 this and yet we got what I consider a fairly terse letter
13 just last week -- actually, I think it was addressed to
14 Lester --

15 EXECUTIVE DIRECTOR SNOW: Yes, it was.

16 DAVID COTTINGHAM: It was addressed to
17 you.

18 CHAIRMAN MADIGAN: If it was to you it was
19 terse?

20 EXECUTIVE DIRECTOR SNOW: Yes.

21 DAVID COTTINGHAM: It was both terse and
22 addressed to Lester, you know, saying very basics things
23 that we have told these people time and time again, and the
24 congressional committees, at least one or two of them, are
25 starting to say, well, the way to get this in the eyes of

1 probably most of the CalFed staff are really worried about
2 that ecoentity and I really don't want to move towards
3 addressing that.

4 So the problem with the interim is I'm afraid
5 people think it won't be interim. Once you go through a
6 lot of change and you put an interim organization into
7 place it takes away the emphasis from trying to go back to
8 that ecoentity and the kind of integration that it needs.

9 So I'm just stating my own preference, and,
10 that is, that we concentrate on the ecoentity.

11 We have that -- all of that energy that's going
12 on into the interim redirected into the ecoentity and that
13 we take a look at the present structure.

14 When I look at the interim it looks a lot like
15 what we have now.

16 I'm sure that their needs to be tweaking.
17 There definitely needs to be broader representation within
18 the Bay-Delta Advisory Council for environmental justice
19 groups and Native American groups, all kind of different
20 stakeholder groups that were not represented. I think
21 that's possible to go back and take a look at that but I
22 would like to know why we are not concentrating on the
23 ecoentity.

24 CHAIRMAN MADIGAN: Lester.

25 EXECUTIVE DIRECTOR SNOW: I think there's

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1 a multi-part answer on that and, again, I think I need to
 2 have the policy group members respond, also. I mean, there
 3 is the issue that was part of the exchange between David
 4 and the Chair on the creation of the authorities. The
 5 practical issue of why we are trying to focus on interim is
 6 to be explicit on ecosystem, if we hit our targets, \$390
 7 million of ecosystem restoration money will be released at
 8 the end of June of next year when we issue the Record Of
 9 Decision and certification, and probably even if you were
 10 to resolve by the end of this summer the kind of entity --
 11 new entity you'd like to set up it would take you more than
 12 that to actually set it up with the new legislation that
 13 would be necessary.

14 And so part of our focus on ecosystem entity in
 15 the interim is we need to gear up structures that we have
 16 now that don't need additional legislation in order to be
 17 ready to improve the way that we're incorporating
 18 stakeholder involvement in making those funding decision.
 19 And so that's why we are focusing on that.

20 To some extent the time lines have already
 21 overtaken your ability to create a new entity to deal with
 22 a Record Of Decision in June of 2000, and that's why we are
 23 focusing on it, but we don't -- we, CalFed staff, don't
 24 intend the interim to erase the need for the long-term.

25 We are just making the observation that if you

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1 didn't work on the interim and you labor over the
 2 long-term, you don't come to agreement until May of 2000,
 3 what are you going to do two months later when you have to
 4 start implement? And that really is the priority that we
 5 are setting.

6 MS. BORGONOVO: Is it possible to have in
 7 place by the Record Of Decision the ecoentity structure so
 8 that there is momentum forward I mean, I think that
 9 momentum is extremely important and I think all the
 10 momentum is going to go to interim and there'll be no
 11 momentum left to carry forward that ecoentity.

12 And the ecoentity, certainly no one is -- the
 13 agencies are involved. I mean, they have to be involved.
 14 They continue to have that authority. No one is talking
 15 about taking away any regulatory authority but the
 16 implementation through a coordinated integrated
 17 decision-making group is very important.

18 So, I mean, I -- when the second question is
 19 asked what would be the timetable, certainly, by the Record
 20 Of Decision that ecoentity structure should be in place.

21 CHAIRMAN MADIGAN: We could make a
 22 decision on that at the same time we made a decision on
 23 storage. That way everybody would be interested in that
 24 moving it forward as quickly as possible.

25 MS. BORGONOVO: Well, I mean, everybody's

1 keeps asking for certain things and so we're asking for the
 2 ecoentity so just chalk me up there.

3 CHAIRMAN MADIGAN: Gotcha.

4 David.

5 DAVID COTTINGHAM: Let me just mention
 6 that there are a number of people here in the room who have
 7 been working very hard on that. I see Mary Scoonover, Alf
 8 Brandt, Tom Hagler. There are a number of attorneys
 9 Cynthia Kohler is in the back of the room. I've met with
 10 Cynthia on a couple of occasions to discuss these things.

11 Virtually every one of the ways and options to
 12 create an ecoentity is going to require legislation,
 13 whether we use the DeChutes (phonetic) model, joint powers
 14 authority, a corporation, and I was told by my
 15 distinguished Council that either the State and Federal
 16 Constitution had problems with almost every one of them so
 17 in terms of how you get -- find out if the State wants to
 18 create one, that's fine, but how does the Federal money get
 19 into it I mean there were all of these problems that we
 20 began working through, and I think that group of
 21 individuals had been working through it so that we can have
 22 something to implement a year from now without going to
 23 either Congress or the State legislature in getting
 24 something passed because I think in all of those cases
 25 almost every one of the options that we discussed for

1 creating a separate semi autonomous entity as to who was on
 2 the boards of directors and who had the power to sue whom
 3 and hold land and water rights and these sorts of things,
 4 which were absolutely essential to the entity itself
 5 created all sorts of complications and I'd be happy for Tom
 6 or Alf or Mary to add to that or anybody else who sits on
 7 or advises the policy committee if they so wish.

8 CHAIRMAN MADIGAN: Anybody?

9 Judith.

10 MS. REDMOND: Yes. I wanted to bring up
 11 something that's related to this, and, that is, that we
 12 talk a lot about sort of the centralized structure that
 13 would perhaps govern and coordinate all these activities,
 14 and I think we've also heard, though, several times Roberta
 15 and then earlier someone from the audience talk about a
 16 need to bring in broader representation and voices from
 17 social justice groups or other minorities, and I'm not sure
 18 that you can do that in a really centralized way.

19 I feel like a lot of the things that CalFed is
 20 trying to do are -- have their greatest impact at a
 21 regional level, you know, the groundwork conjunctive
 22 management or water marketing or building dams, those kind
 23 of things, a lot of times we might as a centralized
 24 coordinating Advisory Board make some -- have some sort of
 25 idea about how to do those things but we might not get

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1 adequate local involvement during that planning process,
2 and so I think that trying to bring those voices into a
3 group that meets on a monthly or regular basis is just not
4 going to work.

5 I don't think groups that you're interested in
6 bringing in have the resources to come to these kind of
7 meetings and read all of the materials and participate in
8 the way that a lot of the people around this table can
9 participate because people around this table, some of us
10 are -- it seems like a lot of the people around this table
11 sort of do this professionally and some of the voices you
12 try -- are interested in bringing in are people who have
13 other professions and other activities -- you know,
14 other --

15 CHAIRMAN MADIGAN: A life.

16 MS. REDMOND: -- interests.

17 And so I don't think you can bring those voices
18 that you want to bring in into some sort of centralized
19 body, and so if there is a sincere interest in doing that,
20 and I think we need to be concerned about that because I
21 feel like every time -- there is a lot of times when local
22 projects are proposed and then local people get upset.

23 I feel as if some discussion needs to happen
24 about how to bring those voices in that recognize that if
25 they can't come to these meet, meetings, then they never

1 functions to be made, and I am making that distinction
2 because while I've been intrigued by the concept of a
3 public benefit corporation, and I think it has a role, it
4 is not, in my opinion, yet clear that that role is for the
5 central or the primary implementing entity.

6 I think it has a function perhaps with the
7 environmental water account as an example or working with
8 the ecorestoration, but the problem that we would want to
9 avoid, and I want to ask the policy group members to
10 comment, is that I would not want to see a disconnect in
11 implementation that can occur if a separate entity is
12 established that doesn't have the continuing engagement and
13 involvement of all agencies that have been part of CalFed.

14 Oftentimes when separate new entities get
15 established the culture of involvement and a collaboration
16 and cooperation that's been evolving since the
17 establishment of CalFed could get somehow stunted.

18 We don't want any of the agencies to be able to
19 make obviously independent decisions that are in conflict
20 with the implementation of the agreement consistent with
21 the Record Of Decision. So a principle that should go
22 along with looking at governances, how do you continue to
23 involve all of those agencies in implementation and not of
24 independent decision-making that could be in conflict with
25 CalFed.

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1 will.

2 CHAIRMAN MADIGAN: Fran.

3 MS. SPIVY-WEBER: I'd like to follow up on
4 that because I think you made a very -- a good point.

5 I think the watershed work group that is
6 meeting on a regular basis separate from BDAC and the
7 policy group is a place where local involvement is quite
8 strong in various parts of the State at a local and
9 regional level and they are probably -- it would be my
10 recommendation that there should be a much high -- we
11 should elevate the role of watershed groups in the
12 governance -- in the permanent governance -- long-term
13 governance structure of this -- of CalFed in order to
14 accomplish the dual goals of expertise as well as more
15 broader based involvement.

16 CHAIRMAN MADIGAN: Sunne.

17 MS. MCPEAK: The institutional or
18 governance questions that we've been struggling with for
19 some time are to a certain extent as you know I thought
20 were perhaps getting the cart before the horse in that we
21 weren't talking about the functions. We were more talking
22 about arrangement of deck chairs and that's gotten a lot
23 better than that.

24 In looking at the future for CalFed there are
25 implementing functions and there are policy decision-making

1 Secondly, there are policy decisions to be
2 made, pretty significant policy decisions. By that I mean
3 a judgment as to are we making sufficient progress on the
4 objectives that have been articulated to date in the
5 Phase II report and ostensibly will be carried forward in
6 the Record Of Decision.

7 Is that progress sufficient to warrant a no
8 change in course or that does, in fact, trigger a change in
9 course or a decision around facilities.

10 That's a decision, a policy decision, that I
11 think involves a lot more input, as you were saying,
12 Mr. Chairman, clearly stakeholders -- their needs to be a
13 function within the structure, be it an interim or
14 long-term that has a very broad continuing input of
15 stakeholders and, of course, we all have discussed this
16 morning that no matter how extensive that is you'll
17 probably have some folks who say you didn't talk to me and
18 you didn't involve me, and, secondly, I think it needs to
19 involve elected officials.

20 One of the recurring things that I have echoed
21 here is the need to engage the legislators and members of
22 Congress on a continuing basis and that sometimes folks
23 will argue for a separate entity that's insulated from
24 politics. I would respectfully submit that never happens
25 in a democracy and that what will happen is that if a body

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1 is setup and allowed to function without continuous input
2 from the body politic and their elected representatives,
3 that sometimes a vacuum builds up and you get a revolt and
4 everybody's disowns the product.

5 So rather than doing that there's got to be
6 built-in mechanisms in the governance for that continuing
7 involvement and oversight of elected officials and I say
8 that because as David had said, we have members of Congress
9 who think that they should be the Oversight Committee.

10 Well, they should be part of the oversight
11 function and I think that should be explicitly built into
12 on a timetable for the decision-making process. We say
13 when that -- when we would recommend there being not only
14 the formalized briefings but decision-making and input to
15 the process, both in Washington and in Sacramento.

16 So having laid that out, I mean, I do think
17 that the -- whatever we do in the interim, which could be
18 the default position and never got to the final, which is
19 what I heard Roberta say, should still be structured around
20 some very clear principles that I'm still not seeing
21 articulated.

22 When I say principles, I mean characteristics
23 of functions in governance that has continuing involvement
24 in implementation from all of the agencies and on policy
25 decisions engagement from stakeholders and elected

1 long as it meets the statutory requirements and whatever
2 act is involved, that's the test to which it's put.

3 It's a different kind of process in terms of
4 giving authorities to a State or State Federal level entity
5 for other management agencies, but if people feel strongly
6 about wanting to contemplate that, they might consider the
7 kinds of tests for delegation that are used in a number of
8 the environmental statutes in terms of -- well, public
9 involvement, right of action, regulatory authority
10 accountability and so forth are all of the -- some of the
11 measures that are carried out but most of the other Federal
12 agencies are management agencies and it's a very different
13 kind of thing than regulatory authority.

14 MS. MCPK: Can I ask a follow-up
15 question to Phil?

16 Yes, you're absolutely right. That goes to the
17 heart of maybe what I wasn't stating as clearly so let me
18 try to be direct and candid -- more so than I usually many,
19 I guess.

20 CHAIRMAN MADIGAN: Uh-oh.

21 MS. MCPK: It is the regulatory issue or
22 responsibility of EPA that I would hope gets embedded into
23 an agreement. I mean, if you are signing on to an
24 agreement that says that we are going to support and
25 embrace the Record Of Decision and the implementation on a

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1 officials. Obviously, also with the agencies.

2 So having said that I'd really like to hear
3 from the policy committee what major issues you think we
4 should be aware of in reflecting on the governance question
5 and what are the major concerns from your own department
6 that may be we're missing here.

7 Anyone?

8 CHAIRMAN MADIGAN: Leaping right up to
9 answer the question is?

10 MS. MCPK: Phil.

11 PHIL METZGER: I'll take it. This is not
12 functioning.

13 I'll take a less functional stab at it in that,
14 frankly, the EPA is kind of a different cut of fish than
15 most of the other Agency's involvement in that we
16 ordinarily give most of our regulatory and spending
17 discretion to the State level and apart from how those
18 functions are carried out at the State level we are
19 relatively indifferent as to where those functions are
20 housed.

21 And I might note in that regard that California
22 is an exception to most other states in having the Water
23 Quality Control Board and the Regional boards operating
24 relatively difficultly and if the State legislation would
25 arrange that in some CalFed entity that could, you know, so

1 timetable that we work in good faith to do certain things,
2 I would be looking for EPA to not then come in and exercise
3 independent regulatory authority that is in conflict with
4 or contradictory to that agreement.

5 Can you address that?

6 PHIL METZGER: Do you have anything
7 particular in minds apart from 404?

8 MS. MCPK: I don't but that's because
9 I'm just ignorant of probably all of the specifics.

10 PHIL METZGER: Well, 404 actually is the
11 particular authority in which we are already and fully
12 prepared to stretch the envelope on how that process is
13 carried out --

14 MS. MCPK: Okay.

15 PHIL METZGER: -- in that basically a lot
16 of the decision-making that CalFed is doing is over an
17 extended period of time and essentially it requires a
18 certain degree of advance approval of whatever outcome that
19 process is going to generate.

20 And so to the extent we can -- you know, we --
21 and certainly we're optimistic about flushing out the
22 content of that process and that commitment, to the extent
23 that there is a clear analytic process, decision-making
24 process that touches on the analysis of our environmental
25 impact and so forth, that's what we are already in the

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1 process of doing.

2 STEVE HALL: I've got a couple of examples
3 other than that.

4 EPA will set water quality standards for such
5 things as certain trihalomethanes.

6 They have made -- they have not made it clear
7 where they are going with that and I understand why they've
8 got a rule making procedure to go through but what those
9 standards are for such things as Bromide will weigh heavily
10 on the benefits to urban water suppliers that export water
11 from the Delta and that in turn will determine their
12 support or lack of port for a CalFed solution.

13 If EPA's rule making is not some how woven into
14 the CalFed planning process we almost inevitably will have
15 a conflict.

16 Another example and I'll ask Phil to comment on
17 both, is the U.S. EPA is developing a clean water action
18 program that involves setting total maximum daily load
19 limits on waters of the U.S..

20 That almost certainly will have an impact on
21 the watershed planning that we are going to be doing as a
22 part of CalFed.

23 To the extent that the EPA does not weave that
24 into this planning process as well it could result in
25 conflict.

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1 Phil.

2 PHIL METZGER: Actually, Steve, I'm glad
3 you brought up both of these examples because particularly
4 the first example of the drinking water regulatory process
5 is exactly an example of the kind of extensive, intimate
6 and responsive stakeholder involvement process that I here
7 loudly and appropriately being asked for by the members of
8 BDAC.

9 As, you know, California water -- some of you
10 are member, California water interest are well represented
11 in that process now. In a second we are going through that
12 in a red neck process as we did in the first stage and in
13 fact in the first stage regulations are a good example
14 every how responsive that can be in that from the proposal
15 stage to the final rule of the disinfection by-product
16 Stage One rule we substantially revised the total organic
17 carbon treatment requirements based exactly on the input
18 from stakeholders about some of the California specific
19 difficulties and so we certainly anticipate that that same
20 kind of interaction and involvement and responsiveness
21 because this is not a rule that we are developing on our
22 own.

23 We hope and expect that it will come from a
24 consensus agreement of the -- actually, I guess it's a VACA
25 a for stage two as it did come in stage one as a very

1 manageable and implementable rule that recognizes and
2 responds to the treatment of water quality realities that
3 California, among other areas of the country, face.

4 On the TMDL process, that's something that
5 ought not to come from EPA.

6 I mean, the provision -- the development of
7 TMDL is a statutory requirement that we have been forced in
8 -- I don't know how many its -- 20 some, 30 some lawsuits
9 across the country, most of which we've lost, to
10 environmental litigation that basically says it's an
11 obligation of EPA to require the states to develop these
12 TMDL's.

13 So in terms of the responsiveness to the
14 watershed process that's something that is in the hands of
15 the states to -- and California in this particular case --
16 to incorporate in the TMDL's that they under this -- the
17 litigation standards that have been developed nationally
18 and enforced on us by the courts are in a position -- or
19 have the obligation to develop so that I would hope that
20 California would take advantage of that opportunity or to
21 see that the watershed processes do integrate in a way that
22 they can manage and work with the TMDL requirements.

23 STEVE HALL: Just a couple of quick
24 comments.

25 CHAIRMAN MADIGAN: Sure.

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1 STEVE HALL: I appreciate EPA's
2 stakeholder process on the rule making on disinfection
3 bi-products as well as other rules. And I agree with Phil
4 that it's been helpful, would note that bromide is not a
5 carbon based constituent.

6 But, nevertheless, I think that your comment is
7 well taken.

8 But my real point goes to it's good to have the
9 stakeholder process. We support that completely but it's
10 not enough. It needs to be woven into the CalFed process.
11 If it's a separate stakeholder process that somehow doesn't
12 get linked up to CalFed then we still could end up with a
13 CalFed solution that does not address this very real
14 problem.

15 On the TMDL I used EPA as an example because
16 you've initiated it but I would certainly agree it has to
17 extend to the State Water Resources Control Board. We've
18 got to make sure that that TMDL process gets woven into
19 CalFed as part of the watershed but it's not enough to have
20 the stakeholder process. That too has got to be a
21 stakeholder process that somehow links up with what we are
22 trying to do here. What we are going to end up with is
23 two redundant and conflicting programs.

24 CHAIRMAN MADIGAN: Patrick.

25 MR. WRIGHT: Let me just say that I

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1 completely agree with that of I think the whole point of
2 having the conservation strategy is to have a set of
3 actions within which as long as the program is operating
4 under those guidelines then you have the protections that
5 we need under ESA and the other regulatory statutes.

6 Now, the national Clean Water Act, safe
7 drinking water raises somewhat of an exception because it's
8 the one place in the EPA where there are actually national
9 standards that apply everywhere across the country but the
10 vast, vast majority of regulatory requirements are done
11 locally, whether it's done by Regional Boards or State
12 boards in California or done through HCP's or done through
13 regional offices of Fish & Wildlife or whatever and clearly
14 the intent of the conservation strategy in the assurances
15 package is to develop a package within which, as long as
16 the program is operating consistent with that package, then
17 you have consistency with those requirements so you
18 minimize or eliminate the possibility that the regulatory
19 agencies are going to come in from left field with a set of
20 new and different requirements.

21 What we have certainly talking a lot in the
22 last six months or so about making sure that that is as
23 true of the TMDL and the water quality program as it has
24 been thought of with respect to the ESA because there has
25 been a tendency to have the conservation strategy real be

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1 focused on ESA, making sure we have seven to ten years of
2 assurances, we have a plan that provides that level of
3 certainty. There has been level focus and attention of
4 making sure we have that same degree of coordination and
5 certainty with respect to water quality so that the basin
6 plans that are adopted by the regional Board and approved
7 by the State Board are consistent with CalFed's water
8 quality plan so that we don't have a CalFed Program here
9 and then we have a TMDL and a basin planning process over
10 here which are not coordinated or consistent.

11 But from a what I understand there is a lot of
12 effort that has been devoted to that exact issue in the
13 last six months or so to try to make sure we have that
14 level of consistency and coordination.

15 And certainly we will have failed if we've got
16 parallel duplicative processes. That's the whole point of
17 having the CalFed structure and program, to make sure that
18 we've got that level of consistency.

19 Having said that each Agency operates
20 differently and it's more challenging for some agencies to
21 do that, both culturally and procedurally.

22 As Phil said EPA has a long history of
23 delegating programs.

24 As long as the State's Regional Boards are
25 operating consistent with that there is a whole statutory

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1 structure that's setup to accommodate that.

2 We don't have that same structure with respect
3 to the Endangered Species Act. Maybe Mike can speak to
4 this. So we've got to be a lot more creative in terms of
5 the conservation strategy so that we've got the same
6 situation with respect to the ESA that provides the same
7 level of assurances.

8 But certainly the intent is there to do what
9 we've been discussing but it's something that's going to
10 take some time between now and the ROD to be able to
11 provide a better level of comfort that we are actually
12 going to get there.

13 CHAIRMAN MADIGAN: Alf.

14 ALF BRANDT: I guess I'm here partly to
15 defend the lawyers.

16 MS. MCPEAK: Don't try, No. No.

17 ALF BRANDT: I just want to make a couple
18 of comments just so you understand the contents of some of
19 the things we are discussing.

20 I'm an active part -- active member of the
21 governance work groups and things along that line.

22 The lawyers from the government side got more
23 involved probably about six or nine months ago and the
24 reason was that we didn't want -- we wanted to help make
25 this work. We weren't the ones to say you've got to stop

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1 this process and you can't do it. The law doesn't allow
2 it. And that's why we got involved probably six or nine
3 months ago to start to say let's -- let's talk about how
4 this could work. And so I want to run through with you a
5 couple of things. One is we crossed the threshold to
6 knowledge -- basically I think all of us have acknowledged
7 we're going to need legislation. One way or another we
8 can't do this by agreement because there's a whole bunch of
9 legal stuff, authorities and a variety of other things that
10 we are going to need to deal with so we are going to deal
11 with legislation.

12 Once you cross that threshold of saying we are
13 going to be dealing with legislation there are a lot more
14 options because Congress has a lot broader options and the
15 legislature has a lot broader options than agencies do or
16 other along those lines.

17 So once you cross that threshold we can figure
18 out a way. It would be legislation and we need to work out
19 how we do this but there is no problem to have -- to
20 ultimately from a legal perspective to have stakeholders be
21 part of the governance. There is no problem to have
22 elected officials from the State or from the Feds be part
23 of the governance process. It's going to be complicate to
24 figure out how and who would do that but there is no legal
25 impediment to stop that. There is also no legal impediment

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1 and we would anticipate that the agencies would be
2 participating one way or the other. Where we have the
3 difficulty and where that is the reference that David
4 Cottingham mentioned earlier the sort of legal -- we're not
5 sure it's constitutional but it's never been done before
6 and that is a true State, Federal working together entity.

7 I mean, there are Federal entities with State
8 representatives like from the Governor or from things like
9 that and there are State entities where the Federal
10 agencies are authorized to sit on and be part of the
11 governance but there is never been -- and there are a
12 variety of reasons and a variety of theories, some
13 constitutional some legal that it's just not possible to
14 share that sovereignty.

15 The State is a sovereign state and the United
16 States has its own sovereignty and to share that
17 sovereignty it's just not possible because there are
18 questions on things like when it comes to suing, this might
19 sound minor but who do you sue do you sue in Federal court
20 or State court?

21 But I'm sure CalFed will never ever get sued
22 but in any case those kind of issues come up so we are
23 trying to work with all of the stakeholders and all of the
24 other agencies to help find ways to make this work to take
25 care of some of the concerns and some of the direction that

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1 you want to go through and just be able to frame it in a
2 certain way.

3 Just as far as regulatory authority I just
4 wanted to follow up on that. Roberta, I appreciate your
5 comment that there are very few people that are saying
6 really we should give up all of the regulatory authority to
7 this new entity and I think what we are talking about is
8 not so much giving up regulatory authority because interior
9 traditionally has not done that and doesn't have the
10 history that EPA does and I don't think we will be looking
11 at that, we are not looking at that now but there are ways
12 to work through the existing regulatory authority, whether
13 it's by agreements, whether it's by -- you know, the
14 conservation strategy will be looking at different ways to
15 deal with Endangered Species Act issues without an
16 agreement without giving up the regulatory authority. The
17 regulatory authority may still be there -- whether it's
18 Endangered Species Act, Fish & Wildlife service, whatever,
19 they may need down the road to step in. So that regulatory
20 authority I don't think many of us in the work group at
21 least are talking about giving up that regulatory
22 authority. We are just talking about how to structure it
23 and in the conservation strategy work group they are
24 talking about how to structure, an agreement to work this
25 out.

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1 So that's sort of where we are going and why we
2 are involved in case your wondering why the lawyers are
3 getting involved but we want to help make this work and we
4 are trying to structure ways to get to the aims that you
5 are trying to get to but perhaps not with the ways that
6 have been proposed in the past.

7 CHAIRMAN MADIGAN: Thank you, Alf. That
8 was as fine a defense of the legal profession as I can
9 recall. I'm not sure how much it helped but thank you.

10 Bob Raab.

11 MR. RAAB: Mr. Chairman, I have that
12 hopeless feeling right now that I think almost any private
13 citizen representing a public interest group gets at this
14 point because I've never been on a government payroll, if
15 you don't count World War II, and it seems to me that
16 before this discussion ever started I raised my hand and I
17 don't know if it even applies any more, but this governance
18 discussion has been going on for a long time, several
19 years, and it always seems to hit a rock, a stumbling block
20 or whatever, when we get to the point of I hear the
21 bureaucrats saying, well, we've never done that before or
22 it doesn't fit into our funding apparatus, and it seems to
23 me we are trapped in bureaucracy here and the public voice
24 just doesn't get out very much or very strong here.

25 Maybe it would help if we suspended this

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1 discussion, that we bring in some high level Board of
2 wisdom that would include some legislators, some legal
3 scholars, we do something like what we did with the ERP
4 whether we had these outside scientists come in and give
5 their expertise. I think we need to get out of government
6 agencies and the stakeholders that are part of BDAC and
7 start getting some more perspectives than I have been
8 hearing so far.

9 MR. HALL: I object. He cheated and read
10 the document.

11 Isn't that what you're recommending?

12 CHAIRMAN MADIGAN: Lester.

13 EXECUTIVE DIRECTOR SNOW: Yeah, actually,
14 we are in the case of governance doing a version of expert
15 panel which was done on the ecosystem program --

16 MR. RAAB: I missed that somehow.

17 EXECUTIVE DIRECTOR SNOW: And we are doing
18 it in coordination with the California Environmental Trust,
19 which is working with us, which also gives a little
20 distance in the sense it's not made to order for CalFed.

21 They have tapped into two foundations to help
22 fund it and are pulling together national experts on this
23 issue of governance and decision-making an natural resource
24 problem areas.

25 I believe Kate has a group of stakeholders that

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1 were helping to frame this but, in fact, it's California
 2 Environmental Trust that's doing most of the work. Michael
 3 Mantell and Joe Bottowitz(phonetic) -- I think are the only
 4 people in the room now -- and I think that's scheduled to
 5 happen. Is this the first one in June?
 6 KATE HANSEL: June 16th.
 7 MR. HALL: Can you list the stakeholders
 8 that are involved?
 9 EXECUTIVE DIRECTOR SNOW: I cannot.
 10 KATE HANSEL: Cliff Schultz, Cynthia
 11 Kohler, Hap Dunning -- I'm looking around the room for some
 12 folks that can help -- they pulled the stakeholder group
 13 together, not CalFed, but those are the three -- I know
 14 Dennis O'Connor from the California Research Bureau is on
 15 it, too, and EZE, EZE is involved, too, so they are taking
 16 the lead. They are helping -- but they work with CalFed
 17 and the stakeholders can decide who the people should be,
 18 what we are looking for, what the questions should be.
 19 CHAIRMAN MADIGAN: Good. Thank you.
 20 EZE and then I have Tom Graff and Tom Decker.
 21 MR. BURTS: I think this issue of
 22 governance and the principles that have been discussed here
 23 are very important for us to really here the message that
 24 is being said I think Bob issued sort of a warning that we
 25 ought to listen to.

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1 Elected officials evidenced by the letter that
 2 went to Lester don't care and don't understand integrated
 3 storage, inter-agency ecological systems, fish screen
 4 enlargement projects until somebody pushes their button and
 5 they'll fire off a letter, until there constituents make a
 6 noise they don't care and they don't understand, but what
 7 they do understand is governance, organizations, and
 8 structures evidenced by the transportation agency that we
 9 have in Los Angeles, the M.T.A.
 10 That was a legislative fix, and that's what we
 11 are going to get unless we hear it and do something about
 12 it quickly.
 13 We are going to get a legislative fix, and it
 14 may not be one that we like, and the fact that it was
 15 mentioned that Congress has the authority to do whatever it
 16 wants really says that stakeholder involvement, agency
 17 engagement, elected official oversight, all of those things
 18 will be incorporated, and we may not have a say in how it
 19 gets done. So that's why I think, you know, we're really
 20 at that point where we kind of know what needs to be done
 21 and we need to do it and we need to do it quickly.
 22 I think the discussions about all of the
 23 elements are interesting and very important and we all
 24 agree, it's that next step, that's the important thing. We
 25 need to do it. That's our message here today.

1 CHAIRMAN MADIGAN: Thank, you EZE.
 2 (Applause)
 3 CHAIRMAN MADIGAN: Tom.
 4 MR. GRAFF: I think I'll pass.
 5 (Laughter)
 6 CHAIRMAN MADIGAN: Mr. Decker.
 7 MR. HALL: Man, a man who knows not to
 8 follow a tough act.
 9 TOM DECKER: I hate to follow my boss
 10 here, Mr. Burts, but I will do it quickly. I was going to
 11 comment and follow-up on Bob.
 12 I believe the time is ticking and it's ticking
 13 fast. I think up to get through this interim permanently
 14 thing very quickly.
 15 Naturally I would simplify and ask what would
 16 you do in business and I'm sure the governance group, I'm
 17 hope they've done this I do want to say it. You look and
 18 see what is the best practice, who has done something like
 19 this before, and I gather nobody in the history of the
 20 world has, although I'm not sure about that.
 21 I think of things which chill people maybe
 22 today, but there are agreements among disparate groups
 23 Tennessee Valley Authority, Bonnie Wilpower, Rice Growers,
 24 Sunkist, Coastal Commission, the Coliseum Commission, I
 25 mean, constantly people are working on things just like

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1 this and original thought has been gone through over and
 2 over again. I hope that we are looking at least in part of
 3 our research somewhere where some thing has done something
 4 like in so that we don't have to totally and completely
 5 reinvent it.
 6 Of course, business solves these problems in a
 7 easy but extensive way and it pretty much represents what
 8 you were talking about a moment ago. They find some group
 9 that can bring tremendous intellectual horsepower in the
 10 form of a consultant, which I never recommend but I'm going
 11 to say it right now, tremendous intellectual horsepower in
 12 a very focused way to either invent something new or bring
 13 together in some cohesive way the way things have been done
 14 in the past that we can learn from, and they also provide
 15 because they get paid for it, speed in bringing this
 16 information together.
 17 I think that may be something, although I'm
 18 hurt to recommend high powered consultants, that somehow we
 19 may be able get fast information from them because there is
 20 an awful lot of information out there already somewhere.
 21 CHAIRMAN MADIGAN: Stu.
 22 MR. PYLE: Yeah.
 23 I think the track that the governance work
 24 group is on right now is a pretty good one and I think the
 25 list of questions that they got up there as well as the

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1 information that Kate presented are a good cross-section of
2 the thinking in there and what is proceeding in there and I
3 think if they are proceeding on the way that they are going
4 it's pretty good but they do need some direction and
5 answers on some of these questions.

6 And I think it's obvious that we need to see
7 the Framework Agreement restructured. It has to be
8 updated. I suppose it's expired already or else it's going
9 to expire but it does need to be updated and brought
10 up-to-date, and I think the thing that's come out of the
11 governance discussions, work group discussions, is that
12 there needs to be a formal way for stakeholders to be
13 represented in the policy decision-making arrangements.

14 Right now they are only outsiders. They are
15 basically on the same basis as public participation. I
16 think I should footnote that, that I believe there is a
17 difference between stakeholder and public participation.
18 They are not the same. The stakeholders are the people who
19 are involved directly from a major standpoint in the
20 benefits from the program but not from their own point but
21 from a point of service to the public and also the point of
22 channeling a large amount of the money back into the
23 program that sports the program so stakeholders are on a
24 different method and I think when we saw the Framework
25 Agreement come forth four or five years ago, whatever it

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1 was, that it represented a major step forward in bringing
2 the State and the Federal organizations together in a
3 decision-making process and I think the next step forward
4 is going to be to bring the State and the Federal agencies
5 together with the stakeholders in a policy -- the
6 policymaking body together.

7 I don't think the bureaucratic organizations
8 can assume that because they've got the laws on their side
9 and the finances on their side that they are in charge of
10 things, but they have to recognize that the stakeholders
11 are also in there and this policymaking -- this
12 decision-making power has to be shared. So I'd like to see
13 that move ahead.

14 I would also like to see a more aggressive
15 State participation in this process.

16 I think the State probably feels, well, we've
17 got CalFed out there and they are doing the job for us,
18 but, on the other hand, I seem to feel a Federal dominance
19 in this whole process, and what we are talking about here
20 is California and the very processes which are the
21 underlying State -- the basis of the State economy.

22 So I'm not saying that State organizations are
23 shirking their responsibility, but I think from the
24 viewpoint of what we see, I see, at least from my
25 standpoint, I see Federal domination in this situation and

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1 I would like to see a greater showing and sharing of State
2 input to this whole process so we recognize that the State
3 is upfront in this and that the Federal agencies are
4 bringing those services that the Federal Government has to
5 bear in this and recognizing that although they have
6 funding, let's face it, California represents ten percent
7 of the Federal funds so they are only redirecting Federal
8 funding that originated in California back in the
9 California programs.

10 So -- there are a number of other things I
11 could say on this, Mike, but I'm not going to extend this.

12 Let me say one more thing, though.

13 There is experience in this trying to move
14 towards the type of a governance body, State and Federal
15 here, and a lot of the problems are that when you're
16 dealing with the group of Federal agencies, that they are
17 all sourced out of different congressional constituencies,
18 different Federal committees, different Federal budget
19 processes, so it's very difficult for them to cooperate in
20 a way that we might think that they should cooperate, that
21 they are not free to cooperate the way the people in
22 California would like to have them do that because they
23 have to work back through their Federal appropriating and
24 policy making organizations in Washington, D.C..

25 And somehow I think that needs to be overcome and,

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1 hopefully, through this legislative process that we are
2 talking about on enacting new legislation, which is State
3 and Federal legislation, to put together a governance
4 structure, that some of the problems in that separateness
5 that exists in the Federal Government with the Federal
6 action agencies can be brought somewhat together and less
7 conflict in the authority making process in the east.

8 Thank you.

9 CHAIRMAN MADIGAN: Thank you, Stu.

10 Before I go on I should recognize the arrival
11 of Secretary Nichols. Thank you, Secretary Nichols for
12 joining us and Director Hannigan, thank you sir for being
13 here today, and Linda Adams from Governor Davis' office,
14 thank you all three for joining us.

15 I have Roberta and then Rosemary.

16 MS. BORGONOVO: I wanted to go back to a
17 comment that Judith, Fran and Sunne all made, and, that is,
18 that I think that we had talked before we had this first
19 governance discussion, work can go forward concurrently
20 which I hope happens. I hear EZE saying get to it. If we
21 don't write the legislation, it will be written for us.

22 That's absolutely true on both the State and
23 the Federal level, but I think also there has been a lot of
24 thinking about the ecoentity. That could go forward.

25 But when you go back to a discussion that the

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1 ecosystem work group and the watershed work groups had
2 there always seems to be this connection with the programs
3 and what's happening on the local level and in the
4 watershed groups there was a lot of discussion. I know
5 Robert would bring that up if he were still here.

6 The county supervisors have to be involved
7 because they make the language decisions and the local
8 officials have these local constituencies that can get a
9 broader stakeholder input so I want the governance
10 structure to think about that, too, and I very much like
11 this idea of a brain trust tackling it but I think that we
12 need to always been looking at how you get down to the
13 local level and then again how they have that input back
14 into the decision-making process because I think that
15 that's very important.

16 We need to broaden the number of stakeholders
17 involved. I don't disagree with Stu's definition of
18 stakeholders, but if it's a small group of stakeholders I
19 don't think it will have the political weight to carry it
20 through three years.

21 CHAIRMAN MADIGAN: Thank you.

22 Rosemary.

23 MS. KAMEI: First of all I'd like to say
24 thanks to the policy group for being here today and a lot
25 has been said about the stakeholders and certainly I would

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1 like to see meaningful participation, not just at the
2 interim level, but certainly looking at the long-term, and
3 I'd like to hear from the policy group and ask them how
4 they see that coming about because we can certainly sit
5 here and tell you that, yes, we want stakeholder
6 involvement, yes, it's important, you know it's important,
7 we've worked on many things. We've been working on this
8 for the last four years as BDAC members but I'd like to
9 hear from your perspective how you see that happening and
10 how we can have meaningful discussions when there are
11 certain points in time when big policy decisions need to be
12 made, as Sunne had pointed out.

13 CHAIRMAN MADIGAN: David, without putting
14 you too much on the spot, would it be fair to ask you to
15 start?

16 DAVID COTTINGHAM: That's fine.

17 CHAIRMAN MADIGAN: You've sat through a
18 lot of these meetings.

19 DAVID COTTINGHAM: That's final. I'd be
20 glad to.

21 CHAIRMAN MADIGAN: Thanks.

22 DAVID COTTINGHAM: There seems to be this
23 mystique about the policy group.

24 It's really (inaudible).

25 DAVID COTTINGHAM: Sorry, Mary.

1 And there shouldn't, I mean, from my
2 perspective. It's most of the folks that many of you deal
3 with on a pretty regular basis, I have the feeling. At
4 least I'm on conference calls with some of you folks pretty
5 regularly. Others, not so much.

6 And I think that the folks in California have
7 as much or more input to there -- both at the Federal
8 level, both in Washington. We get more visits from
9 California water and environmental interests in Washington
10 than any other group.

11 I've been in the government a long time and I
12 would say that the California stakeholders come back to
13 visit Congress and those of us in the administration more
14 regularly than probably any other groups. I know that's a
15 broad generalization, but I would say you're very -- now
16 that Roger Patterson is here I can't comment on that.
17 He'll probably change that.

18 But my point is that you Californians get to
19 both elected officials and members of the Executive Branch,
20 and we hear you pretty regularly.

21 Now, when we get together in a policy group
22 meeting we're actually trying to bring the diverse
23 interests of all agencies there together.

24 I think we can in recent months almost every
25 policy group we've had at least some group of people come

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1 in of stakeholders, sometimes representatives from BDAC,
2 sometimes not, but come in and address specific issues.

3 In governance I think they came in and did
4 various water facilities at one time or another.

5 I don't think a board of directors is going to
6 work, and people have talked about that. A board of
7 directors where certain stakeholders have a vote on the
8 board of directors. I think there are regulatory and other
9 funding authority issues that there is a role that Federal
10 and State agencies play and there is a role that people who
11 want to influence those play.

12 I think we, as we discussed earlier, do we need
13 to have 16 public hearings on these things or ten or
14 whatever?

15 So I think that what we have transitioned into,
16 and maybe when we redo the framework for the policy group,
17 we can have regular input from citizens to come to those
18 things in addition to BDAC or have the Chair of various
19 BDAC sub committees come and present reports to the policy
20 committee.

21 I think there are a lot of innovative ways we
22 can do that. I don't know right now what more I can say on
23 that?

24 I'm happy for Patrick or --

25 MS. KAMEI: Yeah, I guess just for

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1 clarification I want to know if there is going to be
2 opportunities or tools available to us as stakeholders to
3 be able to come in, not just to talk to you, not just to
4 say this is in our interest for this area, but to really
5 assist and much like what we've been doing in the past four
6 years in developing things and really getting in there and
7 rolling up our sleeves and doing some of the work together
8 as opposed to having you do it, having you go through the
9 implementation, having you make certain -- get to a certain
10 point where you are so far into almost decision and having
11 to role it back.

12 I'm just wondering if you're going to have some
13 kind of mechanism in place for stakeholders to come in
14 ahead of time and in enough time before you make a decision
15 to be able to join together with you?

16 And that's what I'd like.

17 DAVID COTTINGHAM: Okay.

18 CHAIRMAN MADIGAN: David, let me try it
19 for a second and then I do want to invite other members of
20 the policy group.

21 Because I don't think that individual agencies
22 are going to give up much of their implementation
23 decision-making responsibility, and I respect that EPA has
24 done some of that, but EPA is close to being unique in that
25 circumstance, and because I don't think that as a matter of

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1 public policy it's even all that desirable that the
2 decision-making process for this gets too far away from the
3 executive offices of administrations in Sacramento and in
4 Washington, to me those things become sort of fixes in this
5 process.

6 Given that then the maximum amount of light of
7 day and public responsiveness seem to me to be on the side
8 of the policy group going to the citizenry, either in the
9 personal of this or some other group of stakeholders or
10 however it gets defined as possessed to the citizenry in
11 the personal of this or some other group of stakeholders
12 going to the policy group, and that then puts the interest
13 parties and the citizenry in a position, it seems to me, of
14 at least having a respected voice, if there is a
15 disagreement, when that voice does go to the executive
16 office or to the legislatures.

17 DAVID COTTINGHAM: Yeah.

18 And, of course, what happens is that the
19 respective and different voices -- I mean, if we had to
20 elect three people to go to represent the consensus of this
21 group on a whole variety of issues, we'd have to have very
22 carefully balance who those three people were or are.

23 And I think that's what we run into on these
24 things that are so contentious that are as contentious as
25 they are.

1 I'm happy to try to as we start redefining the
2 framework agreement and things to make sure that we write
3 that and consult with this group and actually if you've got
4 a proposal -- I don't know, we'll started -- I guess we'll
5 have to start doing that pretty soon, actually get sit
6 getting a group of people to sit down and redraft that,
7 we'll take the old one and then look at it.

8 I think that's a great idea to actually get in
9 there how we make sure that we have a continuous free flow
10 of information and discussion.

11 And I would think it should probably be through
12 this formal group as much as we can.

13 CHAIRMAN MADIGAN: Patrick.

14 MR. WRIGHT: Let me just add to that, too,
15 to also remind folks that we do have a number of existing
16 processes now that have probably the highest level of
17 stakeholder involvement that's possible.

18 We've got an Ops group process where I think
19 it's safe to say it's probably -- there is no similar
20 situation in the country where you've got a group of
21 stakeholders working side by side with project operators
22 talking about how to operate the system.

23 You've got an ecosystem roundtable process
24 where we are spending hundreds of millions of dollars with
25 largely a stakeholder driven process. That's not to say

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1 that we can't do a better job of that and we probably need
2 to expand the models to deal with other elements of the
3 program to be candid that's had great success. I mean,
4 this group setup a number of subcommittees. Some of them
5 worked well. Some of them worked horribly partly because
6 they needed more agency leadership, the stakeholders tend
7 to spin and spin and spin on some of these issues.

8 Others have worked very well so I think it's
9 partially going to be a continued search for where that
10 balance is between agency leadership and stakeholder
11 participation and better use of this group. And there has
12 been a lot of frustration. I know that staff have done a
13 survey of this group to try to figure out how they could
14 work better because there's been some concerns that folks
15 get the information beyond the time when they feel like
16 they've got a real voice in the process.

17 We tried to experiment by inviting more of you
18 folks to the actual policy meetings. I think there's other
19 ways to do that as well but we've really got to figure out
20 a successor to this group so that in addition to having the
21 individual Ops group, the ecosystem roundtable subgroups
22 that work on specific issues that we've got a better forum
23 for stakeholders to participate globally and we've been
24 struggling with that but hopefully we can come up with
25 something that will work better than what we've got now.

MR. HALL: Mike --

CHAIRMAN MADIGAN: Thank you. Steve.

MR. HALL: Good discussion. I think, though, there is a pretty broad agreement. I'm sure EZE Burts' remarks are broadly endorsed.

The people we haven't heard very much from, although, we did hear from David and Patrick just now, are the policy group members, and I guess I would ask them the question directly. Do you think a governance structure that doesn't subsume the regulatory and other authorities and responsibilities of the State and Federal agencies but niche them together in some way so that they work in a coordinated fashion is both possible and desirable?

CHAIRMAN MADIGAN: Secretary Nichols.

SECRETARY NICHOLS: Well, just to answer that specific question, sure. I feel like a little bit like somebody who has walked in on a family gathering that's been going on for four years or may be more and, you know, Uncle Harry isn't speak to go Aunt Ma but neither one of them is willing to leave the room until somebody else comes in and tells them what to do.

But, seriously, you know, I do approach this issue with a recognition of the fact that a lot has gone on that I'm just plain not aware of that's gotten us to the point where we are today in terms of the contributions that

mechanism by which the recommendations get carried out. There has to be accountability somewhere for decisions actually getting made.

You are not going to get the elected officials out of the room no matter what. If there is money that's going to be spent, that's going to be appropriated that's taxpayer money, the elected officials are going to have a handle on it no matter what.

And nobody is going to be able to completely wrap it all up in a -- you know, in a bow and tell the next generation that everything is okay. It's got to constantly been renewed if you're going to have -- I mean, I don't presume to think that we can come up with a structure that's going to work for thirty years. You know, we'd be lucky if we came up with a structure that worked for five at this moment.

So --

CHAIRMAN MADIGAN: We're lucky we meet from month-to-month.

SECRETARY NICHOLS: But having said all of that I think we have to keep grappling with these issues. I don't think we can just dismiss them and say thank you very much and now we'll go back to where we all were before, so, yes, there has to be a structure but what exactly that structure is and how formal or how permanent

individual members of this body and the group as a whole have made to getting CalFed to where it is today.

And I really want to be respectful of not just the work that's done because one has to be gracious about honoring people's work, but the reality that we probably can't go forward without the acquiescence and involvement of everybody who is here and the groups that they represent.

Having said that I've been involved in a number of other big stakeholder processes before in my life as a government official and as a non-government official and I've seen them always struggling towards what an appropriate role is for those who are sort of the mediators between the general public, whose interest we all supposedly are striving to optimize, and those who are the accountable officials, who are the elected representatives, and then there are appointees, and there is a constant struggle and tug in terms of who gets to do what.

And everybody has to have a role and I certainly want to hear about why the committee that's been struggling with this issue came to the conclusions that they did about what's needed, but I would say just as a, you know, just to not keep on forever with all of the, you know, the pluses and minuses of different things that you've got to have a structure assures that there is a

it is, maybe we should think about adaptive management for ourselves, as well as for the ecosystem.

CHAIRMAN MADIGAN: Let me --

MR. HALL: Mike's raising his hands and I've been real anxious to hear from him on this.

MIKE SPEAR: I've been dodging this for quite a while now. I'm going to bring up a point on this issue that really hasn't been said by the policy group members and other things.

I've been sitting here trying to figure out how to both be respectful and honest, and since I'm not --

CHAIRMAN MADIGAN: We'll settle for honest around here.

MIKE SPEAR: Since I'm not an elected official I try to do both.

One of the things that I think has not been said is I don't think the policy group sees it as the same priority as the BDAC group and I don't mean that to -- in any sort of way. Fundamentally we have been struggling and trying to figure out -- instead of trying to figure out how to govern it we've been trying to figure out what it is and spending all of our time as both bureaucrats and technocrats but trying to put the pieces together and so the issues come up to us occasionally.

Lester brings it to our attention because he's

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1 afraid somebody is going to run out on him and there won't
2 be anything there so every once in a while it pops up on
3 the schedule and we look at it, but then we are back trying
4 to figure out how to make the water go here or how to build
5 that or how to make those pieces fit together and frankly
6 that's where the energy has been.

7 So I don't think it's -- and when it has come
8 up there's never been a sense every resistance to the
9 notion that there will be an entity, that there will be
10 some sort of a governance structure, that their needs to
11 be, but I think, you know, from the policy committee
12 viewpoint it's never been thought of as something that is
13 so high on the list that we have to wrestle it to the
14 ground now.

15 And, quite frankly, I have to say personally I
16 think that makes sense because I'm a little bit of a
17 believer in that form follows function and quite yet since
18 we haven't got the it we don't know exactly what the -- all
19 the pieces of a CalFed are yet, it's a little hard to
20 design the structure, particularly the long-term structure
21 and that's why I think to some extent this notion of an
22 interim makes sense.

23 So I don't mean that to in any way indicate to
24 you all. I frankly heard a message today of how much
25 higher a priority it is for BDAC than policy and I think

1 nature of the governance of the various pieces; that is,
2 there are a lot of Federal agencies and State agencies and
3 other agencies who have a piece of this, and while it is
4 undoubtedly true that whatever it is could be decided and
5 dealt with by the Governor of California sitting down with
6 the President of the United States the chances of that
7 happening, given all of the other things that are going on
8 in the nation and in California, are fairly remote, at
9 least on a regular basis and we're trying to come up with
10 some sort of a system that at least tries to find out if
11 there's something that approximates consensus on a
12 decision, on a policy, on a program, short of going to the
13 Governor of California and the President of the United
14 States and saying, let's just set Kosovo a side here for a
15 minute and think about, you know, what's going on in the
16 Delta.

17 Now, there are going to be occasionally issues
18 that are going to be so difficult contentious, expensive,
19 whatever, that it will probably reach the desk of the
20 Governor or the President. That's unavoidable in this and
21 a governance structure and mechanism for this is in no way
22 an attempt to avoid the fundamental underpinnings of the
23 republic, but it is an attempt of saying are there ways
24 that we can make decisions short of going to those ultimate
25 decision-makers who have a lot of other things on their

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1 that's been important for us to hear and maybe that's why
2 it didn't get as high in our Agenda as it should have been
3 from your perspective but I'd just give you that response
4 as to, to some extent, an answer why it hasn't been done.
5 I mean I just think we've been trying to figure out how to
6 put the pieces together on a CalFed solution.

7 CHAIRMAN MADIGAN: Thanks, Mike.

8 I -- let me try something here just in terms of
9 my thought process about this.

10 I guess we are trying at some level to shorten
11 the process by coming up with a governance structure while
12 we are still in the process of designing what it is. It's
13 he sort of, I guess, like trying to put your sales force
14 together while you are still designing the product in a way
15 but I think that a businessman who was interested in
16 selling his product would try to do that. So while we may
17 not have it cold and while it may be, as Secretary Nichols
18 described it, something that we kind of amend over time I
19 think it's important for us to try to come to grips with
20 how we move forward from here even though we don't know
21 exactly what it is we are going to do.

22 It seems to me that one of the things that we
23 are trying to do around here is develop a mechanism that
24 provides a lot of light on a fairly complicated subject, at
25 least a major chunk of the complication of which is the

1 plate and so that's why it is to me the notion that the
2 policy group people, those people who are on the government
3 payroll, go to this other entity for the light of day for
4 that review, for that conversation, for that discussion, as
5 opposed to it working the other way around, if that makes
6 any sense.

7 Sunne.

8 MS. MCPKAK: I think that was very
9 eloquently said, and if I might just not only associate
10 myself with those comments, Mr. Chairman, but also be
11 sympathetic with what Mike said. You might have recalled
12 when I started out saying I always thought this was a
13 little bit about getting the cart before the horse and
14 rearranging the debt tray before we knew what it was so I
15 haven't been particularly preoccupied with government
16 structure but rather focused on what we were trying to
17 accomplish.

18 I thought that was far more important and quite
19 candidly we are having this discussion about governance
20 because that's cycling up on our Agenda and we finally have
21 the real benefit of being in the same room with you.

22 It could have been and should have been a
23 dialogue that we engaged in a year ago around the it,
24 around the policy issues and that's far more important and
25 I think, in fact, form will follow function, which is why I

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1 was trying to underscore earlier in today's discussion to
2 get elaborated on what the principles were or the functions
3 of governance. That is what we were trying to accomplish.

4 Having said that there's two dimensions that I
5 think are worth underscoring for this discussion on
6 governance.

7 And one is that as EZE said we need to get on
8 with it.

9 In part I think that a lot of those who are
10 hoping that we can be of help in not only figuring out how
11 to restore the ecosystem and meet California's water needs
12 would like to know how this process gets sustained. We're
13 at that -- an important juncture in history and how do we
14 look forward and keep it going I think is one challenge in
15 front of us.

16 The other dimension that I think came through
17 with what Mr. Madigan had to say, our Chairman, is that
18 embedded in the governance issue is the trust for how we
19 implement the solution and that we came to Phase II with a
20 lot of intense effort, probably it -- this interim to the
21 Record Of Decision deserves as much intensity regenerated
22 around some of the key policy questions as possible but
23 being able to go forward between now and what is
24 anticipated to be June of 2000 for a Record Of Decision and
25 have people by into that is going to turn to a certain

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1 degree on how the governance structure gets defined in
2 order to engender trust and by government structure that's
3 our proxy for saying how there is continuing cooperation
4 among all of the agencies and not disengagement, for
5 implementation, who is involved, when, how for key policy
6 decisions that are now marked in the Phase II report and
7 will probably be carried through in the Record Of Decision
8 and how we have continuing stakeholder involvement as well
9 as public out reach. There is a difference, as Stu said,
10 and true engagement that is institutionalized, formalized,
11 with the elected bodies of the State of California and the
12 United States Congress as well as the administrations that
13 is the Governor and the President. So we don't want to be
14 jumping the gun here. We just happened to have this on the
15 Agenda when we could get all of you fine folks to enlighten
16 us. We do want to talk about function as opposed to just
17 form and make sure that we are moving ahead in sync with
18 you in order not to have this whole thing get -- the energy
19 that we put in today get dissipated by not sustaining
20 progress.

21 PHIL METZGER: To respond a little to the
22 very good points that both Mike and Sunne just made by
23 expanding a little on the good interchange that Rosemary
24 and Patrick had a little bit earlier, which is that
25 particularly at this point where we're still struggling to

1 define function and then structure should follow, that
2 returning somewhat to the bottom line of apart from
3 structure how do you ensure -- apart from the specifics of
4 structure how do you ensure affected and meaningful and
5 sustained stakeholder input and being listened to and
6 heard, that one thing that Patrick mentioned is that there
7 have been good examples of I wouldn't call them small group
8 but sub-issue groups which have been able to work together
9 to reach functioning consensus on implementation issues
10 and I'd like to suggest actually that we are not as far
11 from the potential for that to be expanded here as -- well,
12 as some may think or as may seem from some of the
13 discussion here.

14 I'd like to offer the example that the EPA has
15 experienced in the Safe Drinking Water Act implementation
16 of the amend that were passed three years ago in which
17 basically we have used a VACA subgroups, in which the
18 National Drinking Water Advisory Council, in which there
19 are some -- Wally Bishop is a member from California, has a
20 number of subgroups on which a certain number of the
21 members of the Council serve but then there are also other
22 non-Council members brought in and the subgroups
23 essentially seek to come up on operating the issues with a
24 consensus to recommend to the Council to recommend to the
25 Agency.

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1 That has proven to be a discipline which at
2 least in the case of this law is a pretty functional one
3 because the danger of stalemate is one that essentially
4 they are bypassing their opportunity to have an effective
5 voice and will leave the alternative of reaching consensus
6 is leaving it entirely to the agencies to determine, in
7 this case solely the EPA but in the case of CalFed whatever
8 agencies would be responsible for a piece of implementation
9 to determine what goes on.

10 Equally, though, that means in a sense giving
11 the stakeholders and, of course, the Agency representatives
12 on the working subgroups the pen and basically saying that
13 if you can reach consensus on whatever implementation issue
14 is being addressed to you, that the agencies will take on
15 the responsibility to implement.

16 It's been pretty effective to the extent that
17 just is one example one of the most contentious issues in
18 safe drinking water reauthorization was operator
19 certification guidelines, well the consensus process works
20 so well, basically we just adopted the recommendations of
21 the subgroups verbatim and it was not contentious at all.

22 CHAIRMAN MADIGAN: Thank you.

23 Secretary Beneke.

24 SECRETARY BENEKE: Thank you very much.

25 First of all let me say that I'm having to jump into this

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1 discussion midstream, but the gods were not smiling on
 2 Ohare Airport today and we spent a little extra time
 3 getting here. Yeah, maybe they never are but today was
 4 especially bad.
 5 I can tell and I have observed over the last
 6 many months that there is a great deal of interest in this
 7 topic particularly amongst the stakeholder community and I
 8 have come to the conclusion that I think momentum can and
 9 will follow that level of interest.
 10 I also wanted to take the opportunity to echo
 11 much of what I heard Mary Nichols say when I walked in the
 12 door here.
 13 I come at that I think probably with a little
 14 bit of a skewed perspective and a particular focus on the
 15 Washington, D.C. angle of this.
 16 I am there in the trenches working on the
 17 appropriations for this program every year it seems and
 18 particularly attuned to what Congress -- at least the
 19 Federal side of the appropriations on this program --
 20 particularly attune to I think the reaction of Congress,
 21 both authorizers and appropriators, and I heard Secretary
 22 Nichols say that elected officials will be involved in this
 23 in the future and clearly that is the case, and I guess I
 24 would just urge that as we move forward on this governance
 25 issue we try to coordinate closely both with members of

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1 Congress, our appropriators, our authorizers and also with
 2 members of the State legislature because they, of course,
 3 will play a key role when the time comes to authorize or
 4 bless a new approach on this.
 5 In addition, another caution -- cautionary note
 6 I would like to sound is whatever structure we come up with
 7 here I think must be truly meaningful.
 8 I have kicked around the Federal bureaucracy
 9 for about 18 years now and I have seen Government
 10 reorganizations come and go and this may be sounds a little
 11 cynical and forgive me if I do because I really am not.
 12 I'm a believer in Government and public service.
 13 But, you know, people move from one building to
 14 another and letterhead gets changed and it is, frankly,
 15 many times not worth the effort, and I think we all
 16 envision something much more meaningful than that in
 17 putting together a new governance structure for CalFed but
 18 again I think that we ought to question where we are
 19 heading from time to time and make sure that it truly is
 20 going to make a difference in the effectiveness of
 21 administration of this program.
 22 Another observation, and this sort of follows
 23 on nicely, I think, after Phil's comment, clearly we are
 24 charting new ground here.
 25 I have the pleasure and privilege of being

1 involved in a couple other ecosystem efforts in other parts
 2 of the country.
 3 One is Everglades and there is a very
 4 comparable effort going on.
 5 That currently is structured with a State,
 6 Federal, local government tribal task force.
 7 Stakeholders play a role in each and every task
 8 force meeting in that they attend and they are provided
 9 with an opportunity to comment and provide suggestions in
 10 addition, there is a very active Governor's commission with
 11 terrific stakeholder representation on it. It's comprised
 12 of stakeholders, and in that instance the Governor's
 13 commission really has played, I think, a key role in
 14 shaping the effort.
 15 They have provided excellent input, excellent
 16 work product. It's not unlike the BDAC and it clearly has
 17 been translated into our sort of course of action.
 18 So there is that model. They are not pursuing
 19 a separate governance entity but I think people certainly
 20 down there will follow our efforts here in California with
 21 great interest so -- and, of course, there are many other
 22 fledgling efforts around the country so again I think we
 23 are setting a course, breaking new ground it's an important
 24 issue and one that admittedly hasn't been focused on, I
 25 guess, by the policy team quite as much as it might have

1 been but again we are trying to nail down the substance and
 2 I agree with Mike's comment which I thought was respectful
 3 and also honest, that we don't want to get form ahead of
 4 substance so those are my thoughts.
 5 CHAIRMAN MADIGAN: Steve.
 6 Thank you.
 7 Steve and then Stu.
 8 MR. PYLE: Can I go first?
 9 CHAIRMAN MADIGAN: Steve, can Stu go
 10 first?
 11 MR. HALL: I don't care.
 12 MR. PYLE: I'm sorry, I missed the
 13 introduction of the laid who spoke.
 14 SECRETARY BENEKE: I'm Patty Beneke.
 15 MR. PYLE: And Secretary --
 16 SECRETARY BENEKE: Secretary of the
 17 Interior.
 18 MR. HALL: If I might follow up and try to
 19 put a finer point a question that I asked earlier, it
 20 sounds like everybody is in favor conceptually of a
 21 governance structure but from the waters users key to
 22 receiving assurances out of CalFed is the motion that the
 23 regulatory agencies are going to operate within that
 24 framework, that we are all going to try to problem solve
 25 collectively, to meet the objectives of CalFed, ecosystem

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1 restoration and enhancement preservation, water supply,
 2 water quality, the list goes on, and I guess the real
 3 question is are the regulatory agencies, in your case the
 4 Department of Interior, Fish & Wildlife service, which has
 5 responsibility for the Endangered Species Act, are they
 6 really ready and willing to share decision-making about how
 7 best to implement that very difficult act. Because that's
 8 really what's going to be required, I think, in order for
 9 us to have assurances. We can't on the one hand have a
 10 common governance structure and on the other hand have Fish
 11 & Wildlife service unilaterally taking regulatory actions.
 12 Likewise, I'm sure other stakeholders groups want to make
 13 sure that there aren't other Federal or State agencies
 14 taking unilateral actions

15 I think the project operators, for instance,
 16 are going to have to make the same commitment to not act
 17 unilaterally but to problem solve and share in
 18 decision-making.

19 Do you think --

20 CHAIRMAN MADIGAN: Yeah, I think -- did
 21 you hear how his voice came up at the end?

22 SECRETARY BENEKE: It did at the end and
 23 he's looking right at me. I'll be glad to take a stab at
 24 that but I probably really need Mike Spear here.

25 I have been involved a little bit on the

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1 efforts on the Plat River and I truthfully take great
 2 pleasure in coming out to California and saying you guys
 3 out to take a look at what they are doing in Nebraska, this
 4 little bitty State, right, but there is an example where
 5 again -- this is actually a multistate ecosystem
 6 restoration effort -- where we have stakeholders sitting on
 7 the governance committee helping to implement a species
 8 recovery program that provides regulatory assurances under
 9 the ESA.

10 Now, exactly where on the continuum is that in
 11 on the decision-making continuum?

12 Certainly, they are being listened to.
 13 Certainly, they are providing advice. Certainly, we are
 14 trying to sit down and work through issues with them in a
 15 way that works for them but, you know, under the Endangered
 16 Species Act the ultimate responsibility for administering
 17 that act was given to the Congress Fish & Wildlife Service
 18 so it continues to real estate with the Fish & Wildlife
 19 Service.

20 But I think that there are many, many different
 21 gradations of involvement that stakeholders can and,
 22 frankly, in my opinion, should have input and involvement
 23 and I think again CalFed can be a leading example breaking
 24 new ground in terms of how we go about administering that
 25 act in a way that works in a collaborative way that works.

1 But I probably really need Mike Spears so maybe when he
 2 comes back he can answer this, too.

3 CHAIRMAN MADIGAN: Sunne.

4 MS. McPEAK: Patty, maybe I could try to
 5 build on the question that Steve asked because I asked it
 6 earlier before you had a chance to get out Ohare and I
 7 sympathize.

8 It is one challenge legally for the Government
 9 and agencies to give up and share with nonelected or
 10 nonappointed parties and official designated responsibility
 11 under statute and Steve used the term sharing,
 12 decision-making and I heard you respond by saying there is
 13 a spectrum of ways in which that can be done that really
 14 gets the expertise of stakeholders on to the table and
 15 there's conservation and there is that dimension.

16 There is another aspect of this governance
 17 issue. It really turns on implementation that I want to
 18 underscore, and, that is, quite honestly all of the
 19 agencies sitting here I hope are going to be involved in
 20 implementation and agree -- and involved in an agreement
 21 for how that -- how we implement CalFed, and that there is
 22 a commitment to seeing through the strategies on the
 23 timetable that we all say probably is necessary for
 24 ecosystem restoration, and we're going to take our best
 25 establish through adaptive management at trying to achieve

1 the objective of CalFed and that we don't expect agencies
 2 who are a party to an agreement to be then acting
 3 independently and contradictory to that agreement.

4 And I'm putting it right there. We can't end
 5 up on a program of ecosystem restoration and still have
 6 independent decisions being made on ESA, and that's the
 7 other aspect of it.

8 Earlier Steven gave the example of, well, of
 9 drinking water standards were being set by EPA, and Phil
 10 gave a very good response, when we're trying to work
 11 towards improving water quality, integrating that with
 12 supply generation involving reclamation, recycling and, you
 13 know, there's that dimension to all of this, so can we
 14 envision a true agreement among all of the agencies so that
 15 there is not independent action?

16 SECRETARY NICHOLS: Can I jump in and say
 17 speaking both from my former regulatory experience and
 18 current observation of efforts to reach consensus on
 19 management issues, you have come to sort of the crux of a
 20 very important issue here in terms of how durable and how
 21 effective any agreements that are reached in CalFed are
 22 going to be, and I think there is a problem, which you're
 23 alluding to and you are bringing up here correctly that
 24 there is no effective guarantee short of a statute change,
 25 and even then there could be some subversion of this

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1 probably, that an agency won't be sued or in some other way
2 forced to take an action in pursuit of it is legal mandate
3 that differs from understandings that were reached as part
4 of this process, that people thought they had or even that
5 were quite explicit and probably the extreme example of
6 that would be what was attempted in Oregon and which was,
7 the least for the time being, successfully challenged in
8 the courts in terms of implementation of endangered species
9 laws is there versus a very, very serious high level
10 political agreement.

11 It's a very -- we are entering into high risk
12 territory. There is just no doubt about it.

13 CHAIRMAN MADIGAN: Yeah.

14 SECRETARY NICHOLS: And all sides are
15 going to be at some point threatened with things like that
16 happening. And maybe this really speaks to what the
17 ongoing structure out to be, that it has to be one which
18 keeps the pressure on everybody to abide by the agreements
19 that were made but while recognizing that there is a life
20 outside of those agreements and that sometimes people are
21 going to take action in different arenas where they feel
22 they have to and that the pressure of the community as a
23 whole has to be to try to make them understand those -- you
24 know, understand the consequences and to do it as little as
25 possible and to try to bring everything back into the tent

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1 but it's going to be a real -- it's going to be a long-term
2 and guaranteed difficult, process to do that because we
3 don't have a structure that makes that happen.

4 MR. HALL: Good points, and I think that
5 it's acknowledged that there will be risks, and what we'll
6 be looking for is that the risks are shared and that they
7 are commensurate with the benefits.

8 MIKE SPEAR: May I jump in?

9 CHAIRMAN MADIGAN: Mike.

10 MIKE SPEAR: The reason I want to jump in
11 is I've got to go down town and work on it.

12 CHAIRMAN MADIGAN: Let us no what it is.

13 MR. SPEAR: It's the environmental water
14 account and Mr. Tim Quinn is down there waiting for me so
15 we can do the next iteration.

16 But I heard when I was out of the room that my
17 Agency came up, ESA came up and I thought I would come back
18 and make a comment or two.

19 What I think is underway in CalFed and the
20 program gets really to the heart of the issue, and, that
21 is, what we are trying to do is put together a package that
22 will provide the kind of assurances. I mean it's
23 fundamental to the conservation strategy we heard earlier
24 so that when, in fact, you sign the agreements you have a
25 high degree of confidence on both sides that it will last.

1 What that means is it means it's tough because we know
2 there is not a lot of water. We know there is not a lot of
3 money. We know there is all of those things that we need
4 to provide the assurances. This is not like the accord
5 where we go a year at a time, start with the reservoirs
6 full and go a year at a time and say, oh, we can make it
7 through another year and keep extending one year at a time.

8 This will be a seven to ten year leap on behalf
9 of the fish and on behalf of water users and on behalf of
10 water quality and a lot of other folks.

11 The package gets a lot harder to construct.
12 That's exactly why we are going through this and it takes
13 so long and what you get out of it in the end is something
14 that gives people that confidence.

15 It's not easy because all the pieces aren't
16 there yet. We're still, you know, fitting them together
17 but that's the reason why we are working on it and so that
18 we can provide that level of confidence, and the agreement
19 that you write in the end describes the risk, the linkages,
20 the assurances, and what all of the parties get.

21 So, you know, I think Mary put it very well.
22 Is there any absolute guarantees in all of this?

23 No, probably not. But that's why it's so
24 difficult so that we can get through this length of period
25 with a structure and a set of measures facilities that give

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1 us as high probability as possible.

2 CHAIRMAN MADIGAN: A.J.

3 A.J. YATES: I think as we move through
4 this enormous process of CalFed that we look at it as a
5 programmatic process to where there are various issues and
6 fixes that are going to be going on throughout this whole
7 Bay-Delta system and that the challenge is that we not try
8 to ratchet every single piece.

9 We've got to look at the whole picture as to
10 the benefits in regards to ESA and I know that you have
11 regulatory authority, I realize that, but this process as a
12 whole is to address the anadromous fish and other various
13 issues and you can't get that if you screw down piece by
14 piece as you move forward.

15 It's got to be looked at comprehensively and I
16 know that's difficult to do.

17 We had this discussion before, but that's the
18 real challenge, and I see the real challenge of the BDAC
19 group or whatever that group ends up being is, one, is to
20 force the regulators, us regulators, to try to move in that
21 direction and, two, to make sure that all parties, as Steve
22 said just a minute ago, move forward ahead together where
23 there all can see the benefit versus the cost as they move
24 through this process.

25 Now, this is a challenge we've all got.

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1 MR. SPEAR: One of the difficulties is
 2 that, you know, people struggle from all parts, and,
 3 believe me, I have to struggle with it, too, and that is
 4 the ESA is not like other laws in the sense that you're
 5 dealing with something where you have this total gradation
 6 of risk.
 7 It has a threshold on it somewhere around
 8 jeopardy or extinction there is a threshold that says you
 9 simply won't go beyond this. It is very difficult point to
 10 find and so it is not something where you have the
 11 flexibility of zero to a hundred. It may be 30 or 50 to a
 12 hundred that you get to work with and everybody wants to
 13 argue about where that line is.
 14 People generally understand the principle but,
 15 you know, clearly some of our salmonid species are in the
 16 position where there is not a lot of room to be flexible.
 17 You know, we all hear somebody's adaptive management is
 18 somebody else's huge loophole that they get to exercise
 19 later on and that's the way that they look at it so these
 20 things it's all part of the structuring and writing of the
 21 words and everybody gets to see them and write them.
 22 That's why we write the Phase II document 50 times and the
 23 next 50 times for the next version and all of that.
 24 Everybody is working over every word.
 25 You know from somebody who has to do with ESA

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1 and clearly that's one of the more difficulty acts to work
 2 with, the one thing I can tell you is I understand where
 3 you are coming from and your frustrations and, you know, we
 4 work with them.
 5 We definitely can't make it all fit together
 6 all of the time to everybody's satisfactions and I do have
 7 to go work on the environmental water account.
 8 CHAIRMAN MADIGAN: Thank you, Mike.
 9 Byron.
 10 MR. BUCK: I'd kind of like to bring us
 11 back just a little bit to the timing question.
 12 We all agree that we've got to figure out what
 13 it is that we do in this program and we also agree that we
 14 have to govern it as well.
 15 We are working backwards from a Record Of
 16 Decision June of 2000.
 17 Do we have the commitment from the policy group
 18 that we need to bring this governance issue, the long-term
 19 governance structure and the interim governance structure,
 20 to closure at the same time that we have the Record Of
 21 Decision which is at the point which is when we are going
 22 to be moving into implementation and that's the point it
 23 hits the ground where it really becomes important that we
 24 know what the future looks like.
 25 CHAIRMAN MADIGAN: Good question. I

1 agree.
 2 MS. MCPEAK: What do we need to do?
 3 CHAIRMAN MADIGAN: What do we need to do
 4 to help you get this to that point by then?
 5 We'll ask Lester. Okay, Lester.
 6 EXECUTIVE DIRECTOR SNOW: Blind support.
 7 MS. MCPEAK: Blind support, yeah.
 8 MR. BUCK: That's a schedule you laid out,
 9 was to have it done at the Record Of Decision and what I'm
 10 looking for is the policy group committing with that
 11 schedule, that that needs to be done concurrently?
 12 EXECUTIVE DIRECTOR SNOW: No. No.
 13 Interim has to be set up by Record Of Decision because the
 14 Record Of Decision the next day you are implementing. And
 15 so the way we have the schedule laid out is that the Record
 16 Of Decision would include some longer term structure --
 17 MR. BUCK: The proposal.
 18 EXECUTIVE DIRECTOR SNOW: Correct.
 19 And that is a schedule that we've laid and its
 20 also consistent as we mentioned before the expert panel.
 21 That the timing of that is to have the initial session in
 22 June, to be able to go from there and that helps inform
 23 from an independent source how we might structure that.
 24 CHAIRMAN MADIGAN: Gene.
 25 MR. ANDREUCETTI: The Secretary mentioned

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1 Everglades as a model that we might take a look at.
 2 There are two others that come to mind that
 3 have had considerable success, one being Chesapeake Bay
 4 authority, the other the Great Lakes commission. I guess
 5 just for my own information have we had an opportunity to
 6 study those models and their applicability to CalFed?
 7 CHAIRMAN MADIGAN: Lester.
 8 EXECUTIVE DIRECTOR SNOW: Yes.
 9 Actually, there is probably before you came on,
 10 Gene, we had Betsy Ricci under contract when she was at the
 11 University of Colorado and they put together a kind of a
 12 quick assessment of different structures from around the
 13 country and I believe that there was a discussion of
 14 Everglades and Chesapeake and kind of the strengths and
 15 weaknesses, and I think to make a long story short without,
 16 I don't think, being unfair, I didn't find anything that
 17 was, you know, pick it up and insert it.
 18 Each thing kind of had pros and cons associated
 19 with it as related to the Bay-Delta system.
 20 CHAIRMAN MADIGAN: Okay. Let me go out of
 21 order here for a minute.
 22 Cynthia Kohler I know has to leave at 3:30 and
 23 let me ask her if would like to speak on this subject
 24 before she departs.
 25 CYNTHIA KOHLER: Thank you very much, Mr.

1 Chairman, I appreciate your consideration.

2 I am Cynthia Kohler. I'm the Legal Director
3 for Save San Francisco Bay Association. I have been
4 working with the CalFed staff and the other stakeholders on
5 the assurances and the governance issues for awhile.

6 You've been talking today about a lot of different things
7 so I want to make put it in as simplistic metric for you.

8 There is the question of the overall entity and
9 the ecoentity and the long-term and the interim so I'm
10 going to talk about each of those briefly.

11 Starting with the CalFed entity and what you
12 want to accomplish in the long-term, this has come up
13 relatively recently in our work group and has only come
14 before you a couple of times and one thing I want to put on
15 the table here is that you don't have a lot of options in
16 front of you and I'm hoping that that's a thing that you'll
17 consider, that we'll go back and ask CalFed and the
18 stakeholders to come up with more of them because right now
19 it's on the table. It's essentially a mid-level agency
20 between the policy group and the implementing agencies and
21 the question in my mind really is something that I guess a
22 few people of said here, which is what really is the task
23 that you need the oversight entity to accomplish Kate
24 mentioned a few, ensuring parody, yes, and Sunne made the
25 point that there are policy decisions coming up.

1 Absolutely, and maybe there will be some dispute
2 resolution, but then what about the rest of it?

3 Do you really need to have an oversight entity
4 second-guessing all the implementing agencies on their
5 budgets on their priority setting on their basic
6 implementation decision?

7 Is another option to really strengthen the
8 lateral ties between those agencies, the Ops groups, you
9 know, there are problems with everything, but that's a
10 relatively innovative way to set up mechanisms for agencies
11 to talk to one other, and is that -- that kind of lateral
12 interaction, is that another way to do some of the
13 coordination and the dispute resolution that you might
14 otherwise put into a higher ethical process?

15 So our recommendation there is to look at other
16 models beyond just continuing with a relatively large
17 bureaucracy really.

18 The down sides to having that just to touch on
19 that briefly is you may wind up with a much greater
20 politicization of the process where you've got this
21 mid-level agencies basically second-guessing all of the
22 implementors' decisions and recommendations, what do the
23 budgets look like, what do the priorities look like,
24 instead of having, for example, the water managers making
25 those decisions or the ecomanagers making those decisions

1 you've got this middle agency making it. It might be a
2 good thing, I'm not saying it's not, but I think that you
3 need to consider that, consider the risks, the benefits,
4 the costs and consider other options.

5 And then before I believe the eco -- I mean the
6 overall entity I want to talk a little bit about this
7 interim versus long-term.

8 Our view at save the Bay is that the interim
9 should be short. Whatever is coming up for the long-term
10 we should get to it relatively quickly and we should not be
11 spending a lot of time developing yet another interim
12 structure.

13 The structures we have in place now may be
14 imperfect but at least they are structures and they are
15 functioning to a certain extent. So rather than coming up
16 with a new VACA charter or a new VACA group, you know, a
17 new framework agreement our recommendation is to tweak what
18 we've got now.

19 This group is, you know, I know that not
20 everybody loves BDAC meetings but you've been together for
21 awhile. There is some institutional memory here, a
22 momentum, and our view to the extent that tweaks are needed
23 or new subgroups if there is new funding coming along than
24 do it that way rather than starting from scratch because I
25 think Roberta is absolutely right, starting all over again

1 will definitely divert resources and energy from getting to
2 the long-term and we need to get to the long-term the
3 sooner the better.

4 And now I want to turn to the ecoentity.

5 Today it's been confused. Are we talking about
6 the oversight entity or the ecoentity and there is
7 sometimes a merging of these.

8 Save The Bay's recommendation is that they not
9 be merged at all.

10 These are very different organizations that
11 should have very different, different functions.

12 Whether the ecoentity is the Fish and Wildlife
13 Services or the Fish and Game Department or any other
14 existing agency, whether it's a new agency or a task force,
15 whatever it is there is going to have to be somebody that's
16 responsible for implementing the ecosystem program and that
17 is a very different function than overseeing CalFed as a
18 whole somebody's got to be on line, on point and
19 responsible and accountable for this program. It's
20 massive.

21 I know this group has spent time with the
22 environmental restoration program. You've looked at the
23 strategic plan. These are not small things. This is a 30
24 year plan that's got zillions of moving parts and it's
25 going to be a monumental task and some entity, again,

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1 either an existing one or a new one, has got to be on point
2 for that and that cannot be the same entity that does
3 CalFed oversight so I strongly urge you to separate these
4 things, to deal with them separately and to come up with
5 separate recommendations for them.

6 On the ecosystem entity our perspective from
7 Save The Bay has been to look at this from assurances
8 perspective. We've said this before so I'll repeat
9 estuary. We basically perceive three basic assurances as
10 necessary to getting the -- to basically achieving the
11 ecosystem restoration performance standards.

12 Their needs to be a sort of environmental
13 water. Their needs to be a secure source of environmental
14 funding and their needs to be some implementing agency that
15 is on the hook that's got the political and financial
16 capacity to actually achieve the standards.

17 The stakeholders have come up with a notion of
18 there being a single entity for a few reasons that I'll
19 just remind you of.

20 First it's much more likely to achieve the
21 performance standards if you can consolidate the money and
22 the authority for restoration;

23 Second, we want to eliminate the very
24 fragmented responsibility for ecosystem recovery that has
25 in large part resulted in the problems that we see in the

1 functions, an entity that is responsible for making these
2 performance standards real and that it has the capacity to
3 do its job. So our request to all of you is that if you
4 feel that establishing some sort of new institutional
5 structure is infeasible or impracticable or just a bad idea
6 then it's time for you to come forward with something else.

7 It's essential because we are now in the last
8 year of the planning and we must at the end of this have a
9 proposal, not for an interim entity. We cannot spend this
10 year setting up another interim entity on the ecosystem
11 side. I think that is a mistake, a mistake for all of you
12 and certainly a mistake for the estuary.

13 We have to spend this year coming up with a
14 real proposal for a long term ecosystem restoration entity.
15 Again, whether it's a new one or an old one, whatever it is
16 this is the year that we've got to get to this.

17 We've spent four and a half years walking
18 around this issue. If I had the time I would put up my own
19 chart, which wouldn't be as good as Lester's, but we've had
20 no less than six interim entities trying to do restoration
21 at the same time that we have tried to establish a new
22 long-term proposal and it hasn't happened, and the time is
23 now. So I very strongly urge all of you who feel that a
24 new entity is a bad idea, if that's the case, that's fine.
25 I think I speak for all of the stakeholders when I say we

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1 estuary today;

2 And, third, we want to bring together
3 authorities that are now spread out over various agencies
4 and jurisdictional lines.

5 We have conclude had, and I feel comfortable
6 here speaking for my friends, the water users, but the
7 stakeholders have concluded that one entity is critical to
8 make those things happen.

9 We've recommended to you a new entity because
10 in addition to the other reasons there is no existing
11 agency that can do all of these things right now. So if
12 you do wanted this program to be housed in one place, let's
13 say the Fish & Wildlife Service or the Department of Fish
14 and Game on the State side, new authorities are going to be
15 necessary, anyway.

16 The other reason that we think a new entity is
17 perhaps a productive way to do this is that a few people of
18 alluded to things that we are most likely to achieve our
19 results if we have a Federal State partnership of some
20 kind.

21 Having said that I want to reiterate that it's
22 not Save The Bay's position that we must have a new entity.
23 We are not here before the policy group or BDAC saying
24 we've got to have a new entity.

25 What we've got to have is an entity that

1 are not committed to that. We are committed to something
2 that works so it really is time for all of you to let us
3 know what your proposal is to make these restoration
4 performance standards real.

5 So I will leave that there. On the interim
6 issue, once again, our recommendation is that the
7 restoration coordination efforts should remain in place as
8 the interim entity doing the ecosystem restoration. It's
9 imperfect but it's been going now for a couple of years.
10 Money is getting out the door. There is a technical basis.
11 There is a stakeholder group that is somewhat functioning
12 and as far as an interim approach at least it's working.

13 We will lose enormous, enormous amounts of time
14 if we set that aside and start all over and spend a year
15 trying to come up with our 7th interim restoration
16 implementation proposal. So those are my comments.

17 Thanks very much for making time in your
18 schedule to hear for me.

19 I'd be happy to answer any questions.

20 CHAIRMAN MADIGAN: Cindy, let me ask you
21 one. It seems to me given the underpinning of this
22 operation, which is that everybody gets healthy together,
23 is that one of the principles around here is that nobody
24 gets out in front.

25 How do I as somebody who I suppose is arguably

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1 interested in water supply or water quality issues support
2 the idea of a totally independent function for ecosystem
3 restoration that has the potential for doing a lot of good
4 things for the environment but that doesn't necessarily
5 drag with it commensurate improvements in things like water
6 quality or water supply?

7 If you are totally independent of the CalFed
8 process how do I do that?

9 CYNTHIA KOHLER: Well, let me answer that
10 in a couple of ways.

11 First, I don't know that anybody is proposing
12 that an ecosystem entity be totally independent of the
13 CalFed process.

14 CHAIRMAN MADIGAN: Maybe I misunderstood.

15 CYNTHIA KOHLER: I don't think that's ever
16 been the notion.

17 DWR is not independent of the CalFed process
18 and it's obviously going to be one of the major
19 implementing agencies. The same is true for the bureau so
20 how you setup this entity, you know, there are any number
21 of ways to do that. Alf's talked about a few but speaking
22 for Save The Bay it was never our notion that this entity,
23 again, either a new one or an old one would be in any way
24 independent of the CalFed process.

25 CHAIRMAN MADIGAN: Okay.

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1 CYNTHIA KOHLER: Quite the contrary.

2 It was always our vision of this was that
3 something a lot like the policy group would be the
4 governing Board so if anything it would be a creature, I
5 think, of the CalFed --

6 CHAIRMAN MADIGAN: I understand that,
7 that's fine.

8 CYNTHIA KOHLER: -- and be accountable to
9 those agencies.

10 Getting to the rest of your question about
11 getting better together, I think one of the reasons, I'm
12 sorry Cliff Schultz isn't here but I will channel for him,
13 I think one of the reasons that the water users have
14 supported this notion is that there is, I think, a correct
15 understanding that ecosystem restoration is a fundamental
16 part of water supply reliability. If the system remains
17 broken the water supply isn't going to get that much more
18 reliable and I think the conclusion that was reached is
19 that really one of the only ways to assure that the
20 performance standards are met is to have somebody who is
21 actually on line responsible for making those performance
22 standards real. That really isn't the case right now.

23 CHAIRMAN MADIGAN: My concern is that the
24 ecosystem restoration activity shouldn't be as efficient
25 and as effective as possible. I think it should be. I

1 want to make sure it is a part of our overall program to
2 solve the charge that we were all given, but you've
3 answered that and I appreciate it. Thank you.

4 CYNTHIA KOHLER: I agree with that.

5 CHAIRMAN MADIGAN: Byron and then Sunne.

6 MR. BUCK: I agree with that point. I

7 mean that's why we need -- we at the stakeholder community
8 agree that we need the ecosystem entity because we don't
9 see anything out there that can give us the assurance it
10 will be implemented but we also need a real oversight
11 authority to make sure that all parts of the program are
12 moving together.

13 CHAIRMAN MADIGAN: I'm with you.

14 MR. BUCK: So the two have to be viewed
15 together.

16 CHAIRMAN MADIGAN: I'm with you.
17 Sunne.

18 MS. MCPEAK: Having recognized the wisdom
19 of what Chairman Madigan and Byron have just said I think,
20 as I listened very carefully, Cynthia, to what you have
21 said today I totally agree with what you had to said and I
22 hope I understood. I just want you to sort of repeat back.
23 First, I think there is great wisdom in trying to, what you
24 call, the lateral agreement, strengthen the involvement of
25 the agencies, not impose yet another entity for oversight,

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1 and I've said it not very artfully today and pretty
2 awkwardly but that's really where I'd like to see it go,
3 and I didn't understand until this presentation the role
4 that perhaps the model of a public benefit corporation
5 might have because you and Cliff have also presented that.

6 I stated earlier today that my concept of the oversight was
7 not a public benefit corporation but I thought it had a
8 role and that role perhaps was an ecosystem restoration or
9 the environmental water account and when you laid out three
10 things for the new entity or the function that needed to be
11 carried out by some entity on ecosystem restoration and it
12 included the responsibility for restoring the estuary or
13 the environment and having real water and having money and
14 resources and I do think that the environmental water
15 account and ecosystem restoration have to be linked or
16 merged in an effective way.

17 So I liked very much what I heard.

18 It's also, I think a good warning to us if we
19 don't like this approach, then let's come up with something
20 else and that's what EZE was saying.

21 I really would like to sort of, you know, urge
22 the wisdom you also suggested of the interim function or
23 the interim governance that is being pretty much what we
24 have improve upon but not try to scrap it and go to for the
25 permanent governance, if you will, at least some of the

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1 principles that are emerging in the total engagement of
2 existing agencies, on oversight, a workable, new entity on
3 ecosystem restoration, and somehow not allow that to be
4 disconnected and uncoupled from the other parts of the
5 program, but, as you have said, even if an existing agency
6 -- because you need to consolidate responsibility,
7 authority, and resources, forgetting the job done on the
8 ecosystem. That's what we have to achieve because it's too
9 disparate at this point.

10 And that requires new authority, new legal
11 legislative authority, Federal and State, as I read it,
12 even if not a new entity so then you are always left with
13 the difficulty of saying if we are going to go with new
14 authority should we have the momentum of a new entity? I
15 am arguing this very -- arguing -- I am engaging in this
16 dialogue in the Bay Area over water transit. I can't get
17 away from water. I'm either trying to improve it or put
18 ferries on it.

19 CYNTHIA KOHLER: It's everywhere.

20 MS. McPEAK: And, you know, that's the
21 same organizational discussion that takes place so
22 understanding it requires new legal authority to
23 consolidate responsibility, resources to get the job done
24 on the ecosystem stipulated to the fact it can't be
25 uncoupled from, disconnected from the rest of the program

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1 we've got to sort of make that decision and I think we can
2 do that. I'm ready to make that decision.

3 CHAIRMAN MADIGAN: Okay. Me, too. I'm
4 with you. Like always.

5 CYNTHIA KOHLER: If I could just say one
6 last thing.

7 CHAIRMAN MADIGAN: All right. EZE, did
8 you ever --

9 MR. BURTS: It's really a question on this
10 point and it goes to the first question. Practically
11 speaking now, Lester, Kate, what are we looking at how does
12 -- if we are moving back from the ROD what happens between
13 now and the end of the year?

14 EXECUTIVE DIRECTOR SNOW: First of all, if
15 we are going to have a well thought out long term strategy
16 and Record Of Decision in June that really means you have
17 your final EIR/EIS in April two full months before that,
18 and so practically speaking by the end of this year we have
19 to have a pretty good idea of what it is and do you some
20 fine-tuning in January and February to put it into the
21 draft.

22 And so we kind of six months to labor through
23 this issue.

24 CYNTHIA KOHLER: Just one last thought on
25 that.

1 CHAIRMAN MADIGAN: Sure.

2 CYNTHIA KOHLER: It's certainly our
3 recommendation that these two groups, BDAC and the policy
4 group make a renewed direction and commitment to doing
5 this. A lot of work has gone into this. I don't know that
6 a six month effort, if it's focused and committed, is it
7 all inadequate of I think we should be able to come up with
8 a real proposal in that time. Thank you.

9 CHAIRMAN MADIGAN: Ronne, is this an
10 appropriate time to go ahead and ask you to speak?

11 RONNE COHEN: No, I was on a different
12 morning Agenda.

13 CHAIRMAN MADIGAN: Rosemary.

14 MS. KAMEI: Just on that, you know, in
15 terms of the timeline Byron had mentioned, you know, a
16 request to the policy group in terms of a commitment on the
17 timeline in governance but I didn't -- maybe you said
18 something and I didn't get it but I didn't hear a responses
19 to that.

20 CHAIRMAN MADIGAN: I said sure.

21 MS. KAMEI: Okay. I didn't hear that.

22 CHAIRMAN MADIGAN: I'm pretty sure they
23 did.

24 Walt.

25 WALT PETTIT: I've been quiet for a couple

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1 of reasons and one of them is that I found the comments and
2 questions by the advisory committee members to be very
3 instructive and useful and I hated to interrupt that
4 dialogue and secondly because I think some of the responses
5 that have already been given by policy group members have
6 been -- I can't add much to them, particularly Secretary
7 Nichols' comments and Dave's, but there are a couple of
8 things I'd like to focus on that have to do with the timing
9 and Dave initially said earlier this afternoon that this is
10 going to take legislation to get to a permanent oversight
11 group, whatever shape that takes.

12 And I haven't heard anybody, I don't think,
13 really disagree with that.

14 And Stu Pyle said something that I think is --
15 really bears on that point when he referred to the fact
16 that the Federal agencies have a tremendous number of
17 constituencies in Washington that they have to answer to
18 and bring into this function and this all leads me to the
19 conclusion to respond to Byron's question I think it's
20 going to be really hard to pick a time frame and try and
21 give anybody assurance that the policy group can move this
22 within a particular time frame because I don't think it's
23 going to be completely within the control of the policy
24 group by a long shot. I suspect that the discussion,
25 negotiations and length of time that went into getting

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1 congressional approval of the Coordinated Operations
2 Agreement could be probably increased by an order of
3 magnitude with respect to this question. So while I think
4 all of us bureaucrats, particularly if you keep reminding
5 us, are probably willing to assume that we have a good
6 Government obligation that transcends our turf issues, I
7 think I'm still impress by the fact that this is going to
8 be a huge undertaking to get legislation that sets up
9 something of the nature that we are talking about and while
10 I would commit and I'm sure my agency will commit to be an
11 active participant and go into this with an open mind I am
12 very reluctant to promise you to the policy group can
13 deliver something in a very short time frame and I think a
14 year or two is probably a very short time frame for
15 something like this.

16 So I late to be a wet blanket but I think --

17 CHAIRMAN MADIGAN: Well, think the notion
18 is that the decision is made at this level made as to what
19 it should be recognizing that there is going to be work
20 made ahead to actually get it in place. I agree.

21 Bob Raab and then Byron.

22 MR. RAAB: I have a question for Patty
23 Beneke and Mary Nichols drawing on your considerable
24 experience with regulations and agencies.

25 Cynthia Kohler mentioned that if there is an

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1 ecoentity she gave three points, and one of them was the
2 capacity to do the job. So my question is along these
3 lines:

4 Is there an example of an entity out there that
5 has an effective political heat shield protecting that
6 entity from political influence to a reasonable extent?
7 Because the history of political influence from time to
8 time on the Federal level --

9 CHAIRMAN MADIGAN: Most of it seems to be
10 reasonably isolated from political influence. There's one.

11 MR. RAAB: pardon me, sir? Most of it?

12 Anyhow, I'm carry on here.

13 It seems to me that from time to time the
14 enforcement of the Endangered Species Act was somewhat
15 emasculated some years ago, and certain key people in the
16 Fish & Wildlife Service were moved about and moved away to
17 other places because they were too diligent, and we've had
18 a recent example here in the state of problems with Fish
19 and Game being able to exercise its authority because of
20 the political influence and so I'm wondering if somewhere
21 out there is a wonderful example of a structure, an entity,
22 that has reasonable amount of reasonably good sized heat
23 shield, political heat shield?

24 SECRETARY BENEKE: Do you want to take
25 that one, Mary?

1 CHAIRMAN MADIGAN: You guys decide down
2 here.

3 SECRETARY NICHOLS: Right, my answer to
4 that is why would you want such a thing to exist within a
5 democratic society?

6 There is no such thing that we should ever have
7 as an agency, which is so insulated from politics that it
8 can't be changed.

9 MR. RAAB: I said reasonably.

10 SECRETARY NICHOLS: But the examples you
11 cited were loaded with, you know, a value judgment, which I
12 don't disagree in terms of, you know, people being --
13 having the functions of their agencies undermined.

14 I tend to come from that perspective myself.

15 On the other hand, I would look at old examples
16 like, you know, the early days maybe of the AVC or even the
17 TVA where you had single purpose agencies that were set
18 that up did a brilliant job of doing nothing but the single
19 thing that they were set up to do and nobody else could lay
20 a glove on them for a long, long time.

21 Was that a good thing? Well, some people think
22 so if they liked what they were doing in those days and
23 others thought that it was a disaster so I guess I really
24 don't want to take a stand down that path.

25 And that's part of what I really don't

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1 understand honestly. To be perfectly candid I don't
2 actually understand the proposal that's being brought to us
3 for this independent entity because I don't understand what
4 people think it's actually going to be able to do unless it
5 recreates or consolidates all of the other agencies that
6 are already involved in doing these same functions.

7 I don't think that's what's meant so I just
8 need to understand what they think that they will do.

9 CHAIRMAN MADIGAN: I doubt that there is a
10 single coherent notion around the table.

11 I will tell you that mine is not an expectation
12 that anybody is going to be recreating anything.

13 Mine is that we will, however, have an entity
14 that will force the light of day on the decision-making
15 process at a level lower than the President of the United
16 States and the Governor of California so that most of those
17 issues because everybody understands it will get thorough
18 review in public can get resolved without being pushed up.

19 I don't expect that it will be the end point of
20 the decision-making process.

21 SECRETARY BENEKE: I have one random
22 thought on your question and I can say that as a political
23 appointee my observation has been that many of the current
24 agencies have about as good a political heat shield as one
25 could hope for.

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1 I mean, I -- bureaucracies oftentimes are slow
2 to move and slow to change. I think that's one of the
3 reasons that people are anxious to pursue this idea of a
4 separate governance entity, but I also think that
5 bureaucracies tend to even out the change factor a little
6 bit, the highs and the lows, and they don't shift gears
7 real quickly so --

8 CHAIRMAN MADIGAN: Byron.

9 MR. BUCK: Thank you.

10 Briefly, I wanted to get back to your comment
11 and the comment that Walt made, which I appreciated.

12 What I'm looking for, and I think what the
13 stakeholders are looking for in BDAC, I'd have to speak
14 for, is that the policy group commits to make a decision on
15 the long-term governance structure at the time of the
16 Record Of Decision.

17 I'm under no illusion that since we have
18 concluded it requires legislation that that's going to move
19 fast and we have any real control over it, but we should be
20 collectively deciding where it is we want to go and have
21 that proposal ready at that time.

22 And just Mary's question about -- and, if I
23 understood it --

24 MR. BURTS: Was that Walt's understanding?

25 MR. BUCK: I think that was Walt's

1 but in terms of anything new or new authority it's to
2 manage the assets that are going to be required for
3 ecosystem restoration in a way that there is accountability
4 and we can actually reach those ecosystem goals.

5 SECRETARY BENEKE: Can I ask something?

6 CHAIRMAN MADIGAN: Sure, of course.

7 SECRETARY BENEKE: Would there still be
8 stakeholder input and an ecosystem roundtable and an
9 integration panel and, you know, those kinds of functions
10 served?

11 I mean, when we get into the issue, are we
12 recreating what we already have here?

13 MR. BUCK: All of those functions would be
14 served, yes, but whether you would have those names and
15 those pieces --

16 SECRETARY BENEKE: You might change the
17 letterhead.

18 MR. BUCK: You might change, you might
19 consolidate them, but there would be one point of authority
20 that would be less scattered, and the implementing
21 authority would be more consolidated for the restoration
22 functions, distinct from the regulatory functions, which
23 stay with all of the existing entities.

24 CHAIRMAN MADIGAN: Well, we've gone on at
25 some considerable length here, Lester.

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1 understanding.

2 (Laughter) (Inaudible)

3 MR. BURTS: We are talking about it and
4 he's not here right now.

5 MS. MCPEAK: Byron is channeling for Walt.
6 Cynthia was channeling for cliff.

7 MR. BUCK: what I heard his worry was once
8 it gets out into the legislation he can't commit to the
9 time and I wasn't wanting to say that. I wasn't asking for
10 that kind of commitment. No one can control Congress at
11 the legislature.

12 CHAIRMAN MADIGAN: Right. Right.

13 MR. BUCK: But Mary made the comment of
14 not understanding what we wanted it to do.

15 In terms of governance structure if we are
16 talking about the ecosystem entity, what we've seen is that
17 we need an entity that can manage both land, water and
18 money conjunctively as part of the ecosystem restoration
19 program.

20 We've got a panoply of agencies that do little
21 pieces of that but we want one to do that all within the
22 context of the CalFed Program.

23 Now, the overall governance oversight structure
24 is a different kind of thing that can look much like we've
25 got now with the policy groups with some different inputs

1 I hope the input and the conversation has been
2 useful in terms of shaving things.

3 Let me ask you if you have anything that you'd
4 like to say in terms of wrapping up the conversation today?

5 All right. And then I'll take Public Comment.

6 Have you filled out a card?

7 EXECUTIVE DIRECTOR SNOW: Let me make a
8 couple comments.

9 First, I wanted to indicate that every single
10 comment from policy group members and BDAC was a very good
11 comment for us and we will heed every one of them

12 (Laughter)

13 Now, one kind of observation -- so I want to
14 make one point really clear and then talk a little bit
15 about process and how I think we can get to the end of the
16 year on this issue -- and one of the points that I want to
17 make on governance, that governance has become a term that
18 means a lot of different things to a lot of different
19 people, and so I want to hit what might be called kind of a
20 very provincial aspect of governance, and provincial from
21 the standpoint of the Bay-Delta system, and it comes from a
22 general view that nothing worthwhile in life comes easy,
23 and there is a chance you're going to win the lottery but
24 the odds are a lot higher you are going to be audited by
25 the IRS than winning the lottery.

1 And so one of the things so far -- is that your
2 experience, Mike -- we have that on the Agenda for the next
3 BDAC meeting, actually.

4 CHAIRMAN MADIGAN: Yeah.

5 EXECUTIVE DIRECTOR SNOW: The governance
6 structure needs to provide what I refer to as dogged
7 pursuit of implementation.

8 It needs to be real clear who is responsible
9 for implementing the "it" that Mike talked about when we
10 decide on it and that we not have a structure that relies
11 on casual divine intervention, that everything happens as
12 it's been laid out, and you can use the example that Alex
13 and I talked about this morning, South Delta improvements.

14 Regardless at this point what Alex thinks about
15 those actions at some point there is going to be agreement
16 on as many as 50 individual actions that need to take place
17 to fix some of the South Delta problems, and we will
18 prescribe that that needs to happen in a seven year period,
19 and so what is the governance structure that we take --
20 that we put in place to make sure that seven years doesn't
21 turn into 14 years or that funds don't get moved to other
22 ecosystem restoration projects in other parts of the
23 country or monies aren't used to dredge Long Beach Harbor
24 instead of fix the South Delta Program?

25 And so there is just a piece of governance that

1 is who is responsible, who gets held accountable and how
2 are you holding them accountable?

3 And that almost doesn't matter about the shape
4 of the table issue or where the stakeholders fit in. It's
5 just an old fashioned management issue, who are you going
6 to look in the eye, and that's an individual or an agency
7 or a group and say you are not on track. What are you
8 going to do to get back on track?

9 And so I think as we labor through some of
10 these turf kinds of issues about where stakeholders fit in
11 and where authorities stop, we need to make sure when we
12 get done with this who we are going to hold accountable and
13 how that's going to work.

14 Now, in terms of the timeline and the
15 commitments that have been asked about here I think what we
16 intend to do as staff is we've listened to this. We are
17 going to get some input from the expert panel that we
18 talked about before, and I think particularly after we get
19 the draft out on the street and we have time to work on
20 this we will propose and you will dispose of, and that
21 applies to both the policy group as well as this advisory
22 group.

23 Staff is going to propose options and you guys
24 are going to deliberate and, hopefully, that will lead to a
25 good decision on this and so I guess we've got a

1 partnership.

2 We have a governance structure to get to the
3 issue of governance and we will try to put as many options
4 as we can down and as many expert opinions from across the
5 country on this and try to lay out some different options
6 but whether we get to the end of the year with the
7 governance structure depends I guess on the quality of the
8 interchange we have between the agencies and between the
9 stakeholders groups' representative.

10 CHAIRMAN MADIGAN: Thank you, Lester.

11 I have two requests to speak. Dennis O'Connor
12 from the California Research Bureau. You're on.

13 DENNIS O'CONNOR: Thank you.

14 With respect to the oversight, and this applies
15 both to the interim and to the long-term, I've been
16 involved in the institutions and assurances work group and
17 the governance work group for quite awhile and it seems to
18 me that the key thing with the oversight, and Lester sort
19 of stole some of my thunder on this, the key function of
20 the entity is accountability.

21 You know, are we all getting better together?

22 Are the funds being spent in a timely and
23 appropriate manner?

24 Are there sufficient funds identified for the
25 future to meet all of the needs?

1 Are the efforts producing the expected results?

2 Essentially are the solution principles being
3 met?

4 And given that that's a real key function of
5 oversight then the next big question is who is best suited
6 to provide that accountability?

7 Is it the agencies who are doing the
8 implementing or is it some other group with a vested
9 interest in making sure that all of those things get done
10 consistent with whatever the agreements were?

11 And so that's -- goes a long ways towards
12 explaining, I think, why so many in the stakeholder
13 community are very interested in seeing some sort of an
14 independent oversight entity to just assure that the
15 agreements that were made in the ROD are followed through
16 consistent with the ROD.

17 And then just to close, one former legislator
18 once told me that the key thing that he's always looking
19 for is whose throat to grab and whose budget to cut and I
20 think that's what we are really looking for, is the someone
21 to be that person.

22 Thank you.

23 CHAIRMAN MADIGAN: Boy, that makes my day.

24 Okay. Thank you very much, Dennis.

25 Mike Schaver from the Big Valley Band.

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1 MIKE SCHAUER: Thank you very much, Mike.
 2 I'm the Environmental Coordinator with the
 3 Big Valley Band of Pomo Indians and it's great that the
 4 Native Americans have been discussed in the stakeholder
 5 level and that we are moving forward to have tribes
 6 represented through the Regional Tribal Operations
 7 Committee but I'm working on water quality standards for
 8 the tribe on Clear Lake, and there is over 30 other tribes
 9 in the watershed that are moving forward on their standards
 10 with assistance of EPA and the Bureau of Indian Affairs
 11 tribes are expanding their capacity and I think that needs
 12 to be taken into account. When looking at the governance
 13 in the future tribes will have standards that hopefully
 14 will be compatible with adjacent State standards.
 15 And involvement with the tribe at the BDAC
 16 level from technical staff like myself would be great but
 17 it has to be considered to have tribes involved at the
 18 policy level.
 19 Thank you.
 20 CHAIRMAN MADIGAN: Thank you. That's a
 21 good point.
 22 All right. Those are the only two requests I
 23 have to be heard on this subject.
 24 I have two other speaker cards on general
 25 subjects today.

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1 Thank you all very much for your participation
 2 in this one. This is obviously a biggie because this is
 3 going to carry us or our successors through for some
 4 considerable period of time.
 5 I hate to leave you but I have a plane to
 6 catch. I am still trying to earn a living and I have a
 7 meeting tonight to get to so I'm going to turn the meeting
 8 over to Sunne.
 9 And, Sunne, you can either take a break here or
 10 move right on to the next subject.
 11 MS. McPEAK: I think we should just
 12 proceed to try to conclude the meeting.
 13 May I ask if there are any other final comments
 14 from -- I was going to ask from the policy group members
 15 and then from BDAC on what we've been discussing?
 16 Thank you, Mr. Chairman.
 17 Are there other comments from members of the
 18 policy group to help enlighten or further our deliberations
 19 here at BDAC?
 20 (No response)
 21 ACTING CHAIRMAN McPEAK: We have a couple
 22 of our BDAC members who do want to comment. Maybe that
 23 will stimulate.
 24 Roberta Borgonovo -- it was Byron. Okay.
 25 Roberta.

1 MS. BORGONOVO: Several of us have been
 2 discussing the governance issue and one suggestion we
 3 thought might be put in place right away is that the policy
 4 group meetings be open for observers.
 5 I think that they've already begun by inviting
 6 certain stakeholders to come in and speak to them but one
 7 of the things that opening up those policy meetings does it
 8 allows whoever is interested to know the thinking that goes
 9 on and why the decision has been reached so I'd just put
 10 that out as a suggestion.
 11 ACTING CHAIRMAN McPEAK: Okay. Any
 12 further comments from members of BDAC?
 13 Mr. Graff, Tom.
 14 Byron, had you said you wanted to speak?
 15 MR. BUCK: I guess on that issue -- I'm
 16 not sure that's a good idea. I think there does need to be
 17 time for the policy group to synthesize what they are
 18 hearing and talk amongst themselves without the spotlight
 19 on them all the time.
 20 I think that there definitely needs to be
 21 access in the process where we can get into the thinking,
 22 and I think that they have done a very good job of inviting
 23 stakeholders in for particular discussions so they get that
 24 flavor, but I know the job of the policy group is tough
 25 enough without having necessarily 40 other people in the

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1 room who probably won't be able to just maintain an
 2 observer status.
 3 ACTING CHAIRMAN McPEAK: Mr. Graff.
 4 MR. GRAFF: I wanted to go back to some
 5 things that were said maybe a half hour ago by Mike Spear
 6 and earlier by Steve Hall regarding ESA and the water users
 7 concerned about regulatory constraints and that they wanted
 8 assurance going forward that those regulatory constraints
 9 won't come back to bite them.
 10 And what that brought to mind for me and I've
 11 kind of been holding my fire because I thought the
 12 governance discussion was going in a different direction, a
 13 positive one and let that run its course.
 14 I guess my perspective on that was that the
 15 Congress of the United States in 1992 passed a statute that
 16 provided environmental water and environmental funding to
 17 proactively pursue an Agenda that would forestall the need
 18 for implementation of the Endangered Species Act, at least
 19 to as great an extent as possible, and I think what's
 20 happened is two things for various reasons, I would say
 21 including for at least a time obstruction of that statute
 22 at the State level, the promise of CVPIA has not been
 23 realized at the Federal level but the water hasn't been
 24 forthcoming, at least from the point of view of the
 25 environmental community and the funding hasn't been as

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1 effective as it could have been, and other aspects of CVPIA
2 have lagged as well.

3 And what we had hoped at the time was that
4 there would be comparable State water and funding to
5 compliment the Federal water and funding so that again we
6 wouldn't be forced into the regulatory mode.

7 And as we go forward I think that original
8 conception is still the right one and that we should be
9 looking at a management regime that is implemented however
10 it is, by new entities or old, that avoids the regulatory
11 approach by doing those things that made sense then and
12 make sense now.

13 ACTING CHAIRMAN McPEAK: Thank you.

14 Any further comments before we go to the public
15 testimony from two individuals who have submitted cards?
16 (No response)

17 ACTING CHAIRMAN McPEAK: I know we do have
18 finance on the Agenda. The question is whether or not you
19 all want to tolerate that at this point in time.

20 Because I'm not sensing a great enthusiasm, but
21 let me do take the Public Comment.

22 Michael Umbrella.

23 MICHAEL UMBRELLA: I'll pass, thank you.

24 ACTING CHAIRMAN McPEAK: You are going to
25 pass today totally?

1 level of energy in this room and to bring closure, not the
2 least of which I've sort of lost the Agenda that is in
3 front of me.

4 But I also thought a comment that I wanted to
5 share with everyone that was triggered by Roberta and
6 Byron's sort of exchange about the value of knowing the
7 thinking of the policy group.

8 And I am sympathetic to you can't always be
9 productive when institutions and agencies are figuring out
10 how to work together. So I guess I would defer to the need
11 for that to happen, to institutionalize new ways of
12 cooperating and collaborating sometimes requires that to be
13 done in an environment that's not threatened by whatever is
14 going to be the public perception of it.

15 So having said that this has been very
16 valuable, however. So there's two ways, you know, the
17 value of hearing the thinking of the policy group I think
18 is largely captured by this kind of an exchange and trying
19 to build in systematically regularly over the next year
20 getting to the Record Of Decision this kind of interface.

21 So I want to encourage that. We had suggested
22 that a year ago in Fresno. You know, I guess it takes a
23 year to get things done.

24 I do also want to compliment the agencies on
25 the progress that has been made in the last few months.

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1 MICHAEL UMBRELLA: I'll pass.

2 ACTING CHAIRMAN McPEAK: Ronne Cohen.

3 MS. BORGONOVO: I think Ronne decided she
4 would submit her comments in writing for this morning's
5 discussion.

6 ACTING CHAIRMAN McPEAK: I don't see Ronne
7 in the room. Although, she has been -- she might still be
8 out in the hallway.

9 What is the pleasure of the group?

10 Do you want to take up the finance issue at
11 this point?

12 MS. BORGONOVO: I'd like to see the plan
13 first.

14 ACTING CHAIRMAN McPEAK: So that is a yes
15 or a no?

16 MS. SPIVY-WEBER: That's a no.

17 ACTING CHAIRMAN McPEAK: That's what I --
18 that's good.

19 The meeting that is set in July is also going
20 to focus on finance, is that not true?

21 EXECUTIVE DIRECTOR SNOW: (Affirmative
22 nod)

23 ACTING CHAIRMAN McPEAK: Yes. It is true.
24 Okay. Good.

25 I'm inclined to defer to what I think is a

1 The briefings that we had this morning I think
2 we were all very pleased with and show a lot of substance
3 that is being brought forward so you hear from us from time
4 to time frustration with just the time that has elapsed,
5 and, you know, then we get pushed up against deadlines or
6 we -- some of us. I have done that. I try to push
7 decisions in order just to make something happen.

8 But I think that now there is a new plateau of
9 substance that has emerged from the work of the agencies
10 that is a very good place to invite continuing discussion
11 and move us towards a Record Of Decision and then try to
12 schedule meetings of BDAC to either accommodate the policy
13 group or to somehow work it out that we have policy group
14 members joining us. That's how I would want to conclude
15 that.

16 Mary. Secretary Nichols.

17 SECRETARY NICHOLS: Thank you.

18 As a rather new Co-Chair of the policy group I
19 just wanted to say that your question or your issue about
20 whether meetings should be open to observers is one that I
21 will bring back to the group.

22 We attempt to operate on a consensus basis and
23 we will let you know what the consensus is after we have
24 the discussion but I understand and appreciate the
25 desirability of having more shared thinking going on.

ACTING CHAIRMAN MCPPEAK: Correct.

Any final comments?

I take it as acquiescence unanimously that we are not at this -- we are not able to give the quality attention to finance that the issue deserves, and, therefore, we'll defer it to the next meeting and, besides, Eric isn't here to complain.

He's in Paris -- he's in Paris? Okay. Well, that's a far better place than we are. He's gone to a far better place.

So we will take up finance at another time.

Yes, Richard?

MR. IZMIRIAN: Can I suggest that we put it first on the Agenda?

ACTING CHAIRMAN MCPPEAK: Let's do that.

I think that if there is no objection, I think it would be very good to put it first on the Agenda, be able to really have the kind of quality of discussion that we've had on governance.

Okay. Ladies and Gentlemen, I see no other comments coming forward.

We again thank the policy group for joining us and hereby adjourn this meeting of BDAC.

God speed on your travels home.

1 STATE OF CALIFORNIA }
2 COUNTY OF SAN JOAQUIN } ss.

3
4
5 I, SUSAN PORTALE, Certified Shorthand
6 Reporter of the State of California, do hereby certify:
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1 (Whereupon the BDAC meeting recessed at 4:10 p.m.)

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